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CHAPTER ONE

PROPERTY IN GENERAL

Section 101. Definition of Property

In this Title a thing of which there may be ownership is called property.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 102. Definition of Ownership

The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others, subject to the laws of the Sac and Fox Nation. There may be ownership of all inanimate things which are capable of appropriation, or of manual delivery; of all domestic animals; of all obligations; of products of labor or skill, such as the composition of an author, the good will of a business, trade marks and signs, and of rights created or granted by statute.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 103. When Wild Animals May Be Owned

Animals, wild by nature, are the subjects of ownership while living only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued.

[PUBLIC LAW #SF 89-89, July 27, 1989.]

Section 104. Property Classified

Property is either:

- (A) Real or immovable; or
- (B) Personal or movable.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 105. Real Property Defined

Real or immovable property consists of:

- (A) Land;
- (B) That which is affixed to land;
- (C) That which is incidental or appurtenant to land; and
- (D) That which is immovable by law.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 106. Land Defined

Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 107. Fixtures Defined

A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines or shrubs, or embedded in it, as in the case of walls, or permanently resting upon it, as in the case of buildings, or permanently attached to what is thus permanent, by means of cement, plaster, nails, bolts, screws, or other fasteners.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 108. Appurtenances Defined

A thing is deemed to be incidental or appurtenant to land when it is by right used with the land for its benefit, as in the case of a way or watercourse, or of a passage for light, air or heat, from or across the land of another. Sluice boxes, flumes, hoses, pipes, railway tracks, cars, blacksmith shops, mills, and all other machinery or tools used in working or developing a mine or oil and gas well, are to be deemed affixed to the mine or well.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 109. Other Definitions

For the purposes of this Title:

- (A) “Attorney General” means the Attorney General of the Sac and Fox Nation.
- (B) “Citizen” or “Citizen of the Sac and Fox Nation” means:
- (1) A member of the Sac and Fox Nation.
 - (2) Persons who are a spouse, ancestor, descendant, or other relative within the third degree of a member of the Sac and Fox Nation.
 - (3) A non-natural person created pursuant to the laws of the Sac and Fox Nation, or one which is domiciled, naturalized, or authorized to do business within the jurisdiction of the Sac and Fox Nation.
 - (4) Any person who donates land to the Sac and Fox Nation for the purpose of receiving a patent to that or other land within the jurisdiction of the Sac and Fox Nation.
 - (5) Any person who voluntarily acquires any interest in land or other non-movable property within the Sac and Fox Nation, or who acquires such land or non-movable property involuntarily, and who chooses to exercise any of the rights of ownership or use with respect to the acquired interest other than to disclaim such interest in favor of an escheat to the Sac and Fox Nation.
- (C) “Commission” means the Sac and Fox Tax Commission.
- (D) “Court Clerk” means the Clerk of the District Court.
- (E) “District Court” means the District Court of the Sac and Fox Nation.
- (F) “Jurisdiction”, “Sac and Fox jurisdiction”, “jurisdiction of the Sac and Fox Nation”, “reservation” and words of similar import when used to describe a territorial area means all Indian Country of the Sac and Fox Nation wherever located, and, including specifically, all lands owned by the Sac and Fox Nation within the areas described in (1) Article I of the Articles of Agreement made and entered into at the seat of Government of the Sac and Fox Nation in the Indian Territory on the twelfth day of June eighteen hundred and ninety, by and between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, Commissioners on the part of the United States, appointed for that purpose, and Ma-Ka-Sa-To, Principal Chief and Moses Keokuk, First Assistant Principal Chief on the part of the Sac and Fox Nation, and (2) Article 2 of the Treaty between the Sac and Fox Nation and the United States made and entered into at St. Louis on November 4, 1804.
- (G) “Member” or “Member of the Sac and Fox Nation” means a member of the Sac and Fox Nation as defined in Article 1 of the Constitution of the Sac and Fox Nation.
- (H) “Tax Commission” means the Sac and Fox Tax Commission.

Section 110. Religious, Ceremonial, and Burial Items

(A)¹ Title to religious and ceremonial items of the Sac and Fox Nation, and its clans, bands, and societies, shall be deemed to be irrevocably vested in the Sac and Fox Nation and the particular clan, band, or societies to which the item appertains, and no right or title to such items may be lawfully conveyed by the custodian(s) of such item, other than the lawful delegation of new custodian(s) and transfer of custody and use of the item to the new custodian(s) in accordance with the procedures of the Sac and Fox Nation and the particular clan, band, or society to which the item appertains. All such items are non-moveable in law, and are permanently located within the jurisdiction of the Sac and Fox Nation.

(B) Title to, and the right to exploit for profit, the genetic resources, traditional knowledge, cultural expressions, and intellectual properties, including, without limitation, seeds, medicines, knowledge of the properties of fauna and flora, foods, oral traditions, literatures, designs, language, music, dances, traditional sports and games, history, language, arts, crafts, and the visual and performing arts of the Sac and Fox people are irrevocably vested in the Sac and Fox Nation and the particular clan, band, society, or family to which the item appertains. No right or title to such resource, knowledge, expression, or property may be lawfully conveyed by a custodian(s) of such other than the lawful designation of a new custodian and transfer of custody and use of the item to the new custodian(s) in accordance with the procedures of the Sac and Fox Nation and the particular clan, band, society, or family to which the item appertains. No license may be granted for the commercial exploitation of such resource, knowledge, expression, or property to any MoKoMaNa or other person outside the Sac and Fox community without the express consent of the government of the Sac and Fox Nation. All such items are non-moveable in law, and are permanently located within the jurisdiction of the Sac and Fox Nation.

(C) All rights to property recognized, created, or protected by this Title remain subject to the traditional and customary servitude for the gathering of traditional medicines and foods, game, and materials used for the customary, religious, and ceremonial usages and rites of the Sac and Fox people; permission to be respectfully and reasonably requested, and to be cheerfully granted on reasonable terms and conditions.

(D) Deceased persons are in the custody of their nearest male Sac and Fox relative by blood until interment in the following order: eldest son, other sons, father, brother, uncle, nephew, adopted relatives. Personal property of the deceased not used in the burial ceremony, in payment of the grave diggers and cooks, nor used in their adoption shall be subject to probate in the Courts of the Sac and Fox Nation. The grave of the deceased shall not be disturbed under any pretext by any person. Title or other interests in or to lands patented or assigned pursuant to the laws of the Sac and Fox Nation to the deceased shall be subject to probate exclusively in the Courts of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

¹Formerly Section 30.1 of this Title.

Sections 111-119. Reserved**SUBCHAPTER A
PERSONAL PROPERTY****Section 120. Law Governing Personalty**

(A) If there is no law to the contrary in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile.

(B) Unless expressly declared to the contrary in writing, every citizen of the Sac and Fox Nation is presumed to be domiciled within the reservation of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 121. Thing in Action

A thing in action is right to recover money or other personal property, by judicial proceedings.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 122. Thing in Action May Be Transferred

A thing in action, arising out of the violation of a right of property, or out of any obligation, may be transferred by the owner. Upon the death of the owner, it passes to his personal representatives, except where, in the case provided by law, it passes to his devisees or successors in office.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 123. Trademarks

One who produces or deals in a particular thing or conducts a particular business, may appropriate to his exclusive use, as a trademark, any form, symbol, or name which has not been so appropriated by another, to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation, or part of a designation, which relates only to the name, quality, or the description of the thing or business, or the place where the thing is produced, or the business is carried on, nor the name of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 124. Good Will

The good will of a business is the expectation of continued public patronage, but it does not include a right to use the name of any person from whom it was acquired.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 125. Good Will as Property

The good will of a business is property, transferable like any other.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 126. Title Deeds

Instruments essential to the title of real property, and which are not kept in a public office as a record pursuant to law, belong to the person in whom, for the time being, such title may be vested, and pass with the title.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 127. Oil and Gas Equipment

Any instrument in writing leasing or lending or giving an option to purchase any personal property, used in the digging, drilling, completing or equipping of an oil and gas well shall be void as against innocent purchasers or creditors of the lessee or bailee, unless the original instrument, or a true copy thereof, shall have been filed prior to the time the rights of any innocent purchaser or the creditors of the lessee or bailee accrue or come into being, in the office of the Clerk of the District Court.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 128. Filing and Indexing

The said instrument shall be filed and indexed by the District Court Clerk in the same manner in which chattel mortgages are filed and indexed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 129. Verbal Lease or Loan Void as Against Innocent Purchasers or Creditors

Any verbal leasing or lending of personal property used in the digging, drilling, completing or equipping an oil and gas well shall be void as against innocent purchasers or creditors of the lessee or bailee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 130. Retirement, Pension, or Profit Sharing Plans

(A) No retirement, pension or profit sharing plan, qualified for tax exemption purposes under present or future Acts of Congress, or any trusts, insurance and annuity contracts constituting a part thereof, shall be construed as violating the rule or law against perpetuities, or any rule or law against restraints on alienation; *provided* the power of alienation or the vesting of the interest of any person in such plan, trust or contract shall not be suspended for a longer period than the duration of the lives of the designated beneficiaries of such particular interest, being at the time of designation, plus twenty-one (21) years.

(B) Any such plan, trust or contract may provide against the alienation or encumbrance of the interest of any person therein and further provide that no interest therein shall be subject to garnishment, attachment, execution or the claims of creditors of the persons having an interest therein.

(C) Any person having an interest in any such plan, trust or contract, or in any property or any right subject to any such plan, trust or contract, containing the provisions set forth in this section of this Title, or provisions of substantially the same force and effect, shall have no right to alienate or encumber such right or interest in any manner contrary thereto, and the interest of any such person in any such plan, trust or contract, or in any property or any right subject to any such plan, trust or contract, shall be exempt from garnishment, attachment, execution or the claims of creditors.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER B
ACQUISITION OF PROPERTY

Section 131. How Property Is Acquired

Property is acquired by:

- (A) Occupancy
- (B) Accession
- (C) Transfer
- (D) Will
- (E) Succession
- (F) Prescription

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 132. Title by Occupancy

Occupancy for any period confers a title sufficient against all except the Sac and Fox Nation, and those who have title by accession, transfer, will, succession, or prescription.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 133. Title by Prescription

Occupancy for the period prescribed by civil procedure, or any law of the Sac and Fox Nation is sufficient to bar an action for the recovery of the property, and confers a title thereto, denominated a title by prescription, which is sufficient against all, except the Sac and Fox Nation and its agencies.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 134. Fixture May Not Be Moved - Exceptions

When a person affixes his property to the land of another without an agreement permitting him to remove it, the thing affixed belongs to the owner of the land, unless he chooses to require or permit the former to remove it: *Provided*, that a lawful tenant may remove from the demised premises at any time during the continuance of his term any thing affixed thereto by the tenant

for purpose of trade, manufacture, ornament or domestic use, if the removal can be effected without injury to the premises, unless the thing has by the manner in which it is affixed, become an integral part of the premises.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 135. Riparian Accretions

Where from natural causes land forms by imperceptible degrees upon the bank of a river or stream, navigable or not navigable, whether by accumulation of material or by the recession of the stream, such land belongs to the owner of the bank, subject to any existing right-of-way over the bank.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 136. Removals in Mass May Be Reclaimed

If a river or stream carries away, by sudden violence, a considerable and distinguishable part of a bank, and bears it to the opposite bank, or to another part of the same bank, the owner of the part carried away may reclaim it within a year after the owner of the land to which it has been united takes possession thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 137. Islands In Navigable Streams

Islands and accumulations of land formed in the beds of streams which are navigable, belong to the Sac and Fox Nation, if there is no title to the contrary recognized by the laws of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 138. Islands in Other Streams

An island or accumulation of land, formed in a stream which is not navigable, belongs to the owner of the shore on that side where the island or accumulation is formed, or if not formed on one side only, to the owners of the shore on the two sides, divided by an imaginary line drawn through the middle of the river.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 139. Islands Formed by a New Channel

If a stream, in forming itself a new arm, divides itself and surrounds land belonging to the owner of the shore, and thereby forms an island, the island belongs to such owner.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 140. Ownership of Ancient Bed

If a stream forms a new course, abandoning its ancient bed, the owners of the land newly occupied by the streambed take, by way of indemnity, the ancient bed abandoned, each in proportion to the land of which he has been deprived.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 141. Things Inseparably United

When things belonging to different owners have been united so as to form a single thing, and cannot be separated without injury, the whole belongs to the owner of the thing which forms the principal part, who must, however, reimburse the value of the residue to the other owner, or surrender the whole to him upon payment for the principal part. If neither chooses to reimburse the other their fair share of the value, the court may order the thing sold, and divide the proceeds as equity and justice may require.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 142. Principal Part Defined

That part is to be deemed the principal to which the other has been united only for the use, ornament or completion of the former, unless the latter is the more valuable and has been united without the knowledge of its owner, who may in the latter case require it to be separated and returned to him, although some injury should result to the thing to which it has been united.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 143. Principal Part, How Determined

If neither part can be considered the principal, within the rules prescribed by the last section, the more valuable, or if the values are nearly equal, the more considerable in bulk, is to be deemed the principal part.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 144. Work and Material Combined

If one makes a thing from materials belonging to another, the latter may claim the thing on reimbursing the value of the workmanship, unless the value of the workmanship exceeds the value of the materials, in which case the thing belongs to the maker, on reimbursing the value of the materials.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 145. Blended Materials

Where one has made use of materials which in part belong to him and in part to another, in order to form a thing of a new description, without having destroyed any of the materials, but in such a way that they cannot be separated without inconvenience, the thing formed is common to both proprietors in proportion, as respects the one, of the materials belonging to him, and as respects the other, of the materials belonging to him and the price of his workmanship.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 146. Admixtures of Materials of Different Owners

When a thing has been formed by the admixture of several materials of different owners, and neither can be considered the principal substance, an owner, without whose consent the admixture was made, may require a separation, if the materials can be separated without inconvenience. If they cannot be thus separated, the owners acquire the thing in common, in proportion to the quantity, quality and value of their materials; but if one of the materials of one were far superior to those of the others, both in quantity and value, he may claim the thing on reimbursing to the others the value of their materials.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 147. Use Without Owner's Consent

The foregoing sections of this article are not applicable to cases in which one willfully uses the materials of another without his consent; but, in such cases, the product belongs to the owner of the material, if its identity can be traced.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 148. Right of Owner

In all cases where one, whose material has been used without his knowledge, in order to form a product of a different description, can claim an interest in such product, he has an option to demand either restitution of his material in kind, in the same quantity, weight, measure and quality or the value thereof; or where he is entitled to the product, the value thereof in place of the product.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 149. Damages

One who wrongfully employs materials belonging to another is liable to him in damages, as well as under the foregoing provisions of this article.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 150. Reserved

SUBCHAPTER C
UNCLAIMED PROPERTY

Section 151. Definitions

As used in this subchapter, unless the context otherwise requires:

(A) “Banking organization” means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the Sac and Fox jurisdiction.

(B) “Business association” means any corporation (other than a public corporation), joint-stock company, business trust, partnership, or any association for business purposes of two or more individuals.

(C) “Financial organization” means any savings and loan association, building and loan association, credit union, or investment company domiciled or incorporated within the Sac and Fox jurisdiction, or engaged in business in the Sac and Fox jurisdiction.

(D) “Holder” means any person in possession of property subject to this subchapter belonging to another, or who is trustee in case of a trust, or is indebted to another on any obligation subject to this subchapter.

(E) “Life insurance corporation” means any association or corporation domiciled or incorporated within the Sac and Fox jurisdiction, or transacting within this jurisdiction the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(F) “Owner” means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other chooses in action, or the owner of record of corporate stock or other evidence of beneficial ownership in a business organization or a person claiming under him by reason of a decree of a court of record or by reason of an instrument in writing executed by such owner of record.

(G) “Person” means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity, except that no property of the Sac and Fox Nation or its agencies shall be deemed abandoned unless the Sac and Fox Nation or the Agency having the authority to dispose of said property explicitly declares in writing its intent to abandon such property.

(H) “Utility” means any person domiciled or incorporated in the jurisdiction of the Sac and Fox Nation or who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(I) “Memorandum” shall include a mark, symbol or statement indicating knowledge of or interest in funds on deposit.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 152. Property Held by Banking or Financial Organizations

The following property held or owing by a banking or financial organization is presumed abandoned.

(A) Any demand, savings, or matured time deposit made in the Sac and Fox jurisdiction with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within fourteen (14) years:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

(B) No such deposit shall be presumed abandoned, however, if one or more statements or other business communications concerning such deposit have been sent by first class mail by the banking or financial organization involved to the depositor thereof at least once each year for a period of at least three (3) years, and no such statement or communication has been returned for inability to make delivery to the addressee.

(C) Any funds paid in the jurisdiction of the Sac and Fox Nation toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this jurisdiction, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within fourteen (14) years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

(D) No such funds or deposits shall be presumed abandoned, however, if one or more statements or other business communications concerning such deposit have been sent by first class mail by the banking financial organization involved to the depositor thereof at least once each year for a period of at least three (3) years, and no such statement or communication has been returned for inability to make delivery to the addressee.

(E) Any sum payable on checks certified in the jurisdiction of the Sac and Fox Nation or on written instruments issued in this jurisdiction on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, certificates of deposit and drafts, that has been outstanding for more than fourteen (14) years corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization.

(F) Any sum payable on a travelers' check, unless the owner has within fifteen (15) years corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization. *Provided*, that no such travelers' check shall be presumed abandoned if one or more statements or other business communications concerning such travelers' check have been sent by first class mail by the banking or financial organization involved to the purchaser thereof, at least once each year for a period of three (3) years, and no such statement or communication has been returned for inability to make delivery to the addressee.

(G) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency, or collateral deposit in the Sac and Fox jurisdiction on which the lease or rental period has expired due to non payment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by owner for more than fourteen (14) years from the date on which the lease or rental period expired; except as otherwise provided by other laws of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 153. Unclaimed Funds Held by Life Insurance Corporations

(A) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last-known address, according to the records of the corporation, of the person entitled to the funds is within the jurisdiction of the Sac and Fox Nation. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds it is presumed that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the corporation.

(B) "Unclaimed funds", as used in this section, means all monies held and owing by and life insurance corporation unclaimed and unpaid for more than fourteen {14} years after the

monies became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the morality table or which the reserve is based, unless the person appearing entitled thereto has within the preceding fourteen (14) years (1) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (2) corresponded in writing with the life insurance corporation concerning the policy. Monies otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 154. Funds Held by Utilities

Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in the Sac and Fox jurisdiction, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than fourteen (14) years after the termination of the services for which the deposit or advance payment was made shall be presumed abandoned.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 155. Undistributed Dividends and Distributions of Business Associations

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment or principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member bondholder, or other security holder or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with a business association concerning it, within fourteen (14) years after the date prescribed for payment or delivery, is presumed abandoned if:

(A) It is held or owing by a business association organized under the laws of or created in the Sac and Fox jurisdiction, or

(B) It is held or owing by a business association doing business in the Sac and Fox jurisdiction, but not organized under the laws of or created in this jurisdiction, and the records of the business association indicate that the last known address of the person entitled thereto is in the jurisdiction of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 156. Property Held by Fiduciaries

All intangible personal property and any income or increment thereon held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within fourteen (14) years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(A) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in the jurisdiction of the Sac and Fox Nation; or

(B) If it is held by a business association, doing business in this jurisdiction, but not organized under the laws of or created in the jurisdiction of the Sac and Fox Nation, and the records of the business association indicate that the last known address of the person entitled thereto is in this jurisdiction, or

(C) If it is held in the Sac and Fox jurisdiction, by any other person.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 157. Property Held by Courts, Public Officers, and Agencies

(A) All tangible and intangible personal property held for the owner by any court, public corporation, public authority, or public officer of the Sac and Fox Nation, or a political subdivision thereof, that has remained unclaimed by the owner for more than three (3) years is presumed abandoned.

(B) All tangible personal property held by any public or Tribal Housing Authority that has remained unclaimed by the owner for more than ninety (90) days after the eviction of the owner from a Housing Unit of the Authority is presumed abandoned.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 158. Miscellaneous Personal Property Held for Another

All intangible personal property, not otherwise covered by this subchapter, including any income or increment thereon and deducting any lawful charges, that is held- or owing-in the jurisdiction of the Sac and Fox Nation in the ordinary course of the holder's business and has remained unclaimed by the owner for more than fourteen (14) years after it became payable or distributable is presumed abandoned; *provided*, that no travelers' check shall be presumed abandoned until it has been outstanding for twenty-one (21) years from its date of issuance.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 159. Mineral Interest in Land

(A) Any mineral interest in land in the jurisdiction of the Sac and Fox Nation shall be subject to escheat under the provisions of this subchapter if it generates an intangible property interest which is presumed abandoned under this subchapter.

(B) All holders of intangible property interest generated by a mineral interest in land in the Sac and Fox jurisdiction shall report to the Commission, in addition to the reporting otherwise required by law, the names of the last-known owners of record of the unclaimed mineral interest, the legal description of the land affected, and the extent of the property rights in the mineral interest.

(C) The Commission shall send a copy of the report required by this section to the Attorney General.

(D) The Commission is authorized to develop procedures for the implementation of this Section.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 160. Additional Conditions Leading to Presumption of Abandonment

Unless otherwise provided, intangible personal property is subject to a presumption of abandonment under this subchapter if the appropriate conditions leading to a presumption of abandonment, described in this subchapter are met, and if:

(A) The last known address of the owner appearing on the records of the holder is in the jurisdiction of the Sac and Fox Nation, whether or not the holder:

(1) Is domiciled in the this jurisdiction or is engaged in or transacts business in the Sac and Fox jurisdiction, or

(2) If a court, public corporation, public authority, or public officer, is a court, public corporation, public authority, or public officer of the Sac and Fox Nation or a political subdivision thereof; or,

(B) No address of the owner appears on the records of the holder, and the holder is:

(1) Domiciled in the Sac and Fox jurisdiction, or

(2) A court of the Sac and Fox Nation, or

(3) A federal court within the jurisdiction of the Sac and Fox Nation, or

- (4) A public corporation, a public authority, or public officer of the Sac and Fox Nation or a political subdivision thereof; or,
- (C) (1) The last-known address of the owner appearing on the records of the holder is in another jurisdiction and
 - (2) Such other jurisdiction makes no provisions in its laws for the escheat or taking custody of such property, and
 - (3) The holder is:
 - (a) Domiciled in the jurisdiction of the Sac and Fox Nation, or
 - (b) A court of the Sac and Fox Nation, or
 - (c) A federal court within the Sac and Fox jurisdiction, or
 - (d) A public corporation, public authority, or public officer of the Sac and Fox Nation or a political subdivision thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 161. Report of Abandoned Property

- (A) Every person holding funds or other property, tangible or intangible, presumed abandoned under this subchapter shall report to the Tax Commission with respect to the property as hereinafter provided.
 - (B) The report shall be verified and shall include:
 - (1) The name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of Twenty-five Dollars (\$25.00) or more presumed abandoned under this subchapter.
 - (2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last-known address according to the life insurance corporation's records;
 - (3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that (A) items of value under Twenty-five Dollars (\$25.00) each may be reported in the aggregate, and (B) on request of the holder, the Tax Commission may, in its discretion, approve the reporting of one or more categories of unclaimed funds in the aggregate on an estimated basis, whenever it shall appear that each of the items in any such category has a value of less than Twenty-

five Dollars (\$25.00) and the cost of reporting such items would be disproportionate to the amounts involved; and,

(4) The date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property.

(C) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior-known names and addresses of each holder of the property.

(D) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The Tax Commission may postpone the reporting date upon written request by any person required to file a report.

(E) Before filing the annual report the holder of property presumed abandoned under this subchapter shall, if the owner's claim has not been barred by the statute of limitations, communicate with the owner with respect to property of the value of Twenty-five Dollars (\$25.00) or more at his last-known address if any such address is known to the holder, setting forth the provisions hereof necessary to occur in order to prevent abandonment from being presumed; *provided, however*, that the holder in his discretion need not so communicate with the owner, or otherwise exercised due diligence to ascertain the whereabouts of the owner. The mailing of notice by first class mail to the last-known address of the owner by the holder shall constitute compliance with this subsection and, if done, no further act on the part of the holder shall be necessary.

(F) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an Officer; and if made by a public corporation, by its chief fiscal officer.

(G) Notwithstanding anything to the contrary in this subchapter:

(1) The initial report filed under this subchapter shall include all items of property that would have been presumed abandoned if this subchapter had been in effect during the two-year period preceding its effective date; *provided*, that those items of property as to which the bar of the applicable statute of limitations has accrued as of the effective date thereof need not be reported.

(2) If the aggregate value of all items of property held for or owed or distributable to an owner and unclaimed hereunder is less than Twenty-five Dollars (\$25.00), such property shall not be required to be reported under this subchapter.

(H) Should any holder wish to be relieved of the burden of holding such excludable property it may, at its election, report such property and be accorded the protection of Section 64 of this Title.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 162. Notice and Publication of Lists of Abandoned Property

(A) Within one hundred twenty (120) days from the filing of the report required by Section 61 the Tax Commission shall cause notice to be published once in a legal newspaper.

(B) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the Commission;

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within sixty-five (65) days from the date of the notice the abandoned property will be placed not later than eighty-five (85) days after such publication date in the custody of the Tax Commission to which all further claims must thereafter be directed.

(C) The Tax Commission is not required to publish in such notice any item of less than Twenty-five (\$25.00) unless it deems such publication to be in the public interest.

(D) Within one hundred twenty (120) days from the receipt of the report required by Section 61, the Tax Commission shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of Two Hundred Fifty Dollars (\$250.00) or more presumed abandoned under the subchapter.

(E) The mailed notice shall contain:

(1) A statement that, according to a report filed with the Tax Commission, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the holder by the date specified in the published notice, the property will be placed in the custody of the Tax Commission to whom all further claims must be directed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 163. Payment or Delivery of Abandoned Property

Every person who has filed a report as provided by Section 61 shall within twenty (20) days after the time specified in Section 62 for claiming the property from the holder, or in the case of sums payable or travelers' checks or money order presumed abandoned under Section 52 within twenty (20) days after the filing of the report, pay or deliver to the Commission al abandoned property specified in the report after first deducting therefrom expenses incurred in the mailing of notices required be Section 61(e). Any such person who, pursuant to a statutory requirement, filed a bond or bonds pertaining to such abandoned property with the Tax Commission may also deduct an amount equivalent to that part of the bond premium attributable to such abandoned property. *Provided, however,* that if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in Section 62, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Commission, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 164. Relief from Liability by Payment or Delivery

Upon the payment or delivery of abandoned property to the Tax Commission, the Sac and Fox Nation shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the Tax Commission under this subchapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Any holder who has paid monies to the Tax Commission pursuant to this subchapter may make payment to any person appearing to such holder to be entitled thereto; and upon proof of such payment and proof that the payee was entitled thereto the Tax Commission shall forthwith reimburse the holder for the payment.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 165. Income Accruing after Payment or Delivery

When property is paid or delivered to the Commission under this subchapter, the owner is not entitled to receive income or other increments accruing thereafter, which income or other increments shall be deposited in the Treasury Account of the Sac and Fox Nation as a miscellaneous receipt of the Tax Commission.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 166. Periods of Limitation Not a Bar

The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this subchapter or to pay or deliver abandoned property to the Commission.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 167. Sale of Abandoned Property

(A) All abandoned property other than money delivered to the Commission under this subchapter shall within one (1) year after the delivery be sold by it to the highest bidder at public sale. The Commission may decline the highest bid and re-offer the property for sale if it considers the price bid insufficient. It need not offer any property for sale if, in its opinion, the probable cost of sale exceeds the value of the property.

(B) Any sale held under this section shall be preceded by a single publication of notice thereof at least three (3) weeks in advance of sale in a legal newspaper.

(C) The purchaser at any sale conducted by the Commission pursuant to this subchapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Commission shall execute all documents necessary to complete the transfer of title.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 168. Unclaimed Property Fund - Deposits

(A) There is hereby created in the Treasury of the Sac and Fox Nation the "Unclaimed Property Fund," the principal of which shall constitute a trust fund for persons claiming any interest in any property delivered to the Sac and Fox Nation under this subchapter and may be invested as hereinafter provided and shall not be expended except as provided in this subchapter. All funds received under this subchapter, including the proceeds from the sale of abandoned property, shall forthwith be deposited by the Tax Commission in the Unclaimed Property Fund, herein created, except that said Commission may before making any deposit to said fund deduct:

- (1) All costs in connection with the sale of abandoned property;
- (2) All costs of mailing and publication in connection with any abandoned property; and

(3) Reasonable service charges not to exceed one percent (1%) of the monies accruing to the Sac and Fox Nation under this subchapter.

(B) Before making a deposit to the Unclaimed Property Fund, the Tax Commission shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 169. Authority of Tax Commission

The Tax Commission is hereby vested with authority and the responsibility for the control and management of all monies in the Unclaimed Property Fund as provided in this subchapter. It shall be the duty of said Commission to take such steps as may be necessary to preserve the principal of monies accruing to the Unclaimed Property Fund as a trust for persons claiming any interest in any property delivered to the Sac and Fox Nation under this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 170. Investment of Unclaimed Property

The Commission shall have the care, custody, and management of the fund, and may invest it, at the best realizable rate, in certificates of deposit, savings certificates or short term obligations of the United States Government or the Sac and Fox Nation in which it shall be legal to invest the public funds of the Sac and Fox Nation or of any agency or instrumentality thereof. The income from such investments shall be paid into the Treasury Account.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 171. Claim for Abandoned Property

Any person claiming an interest in any property delivered to the Sac and Fox Nation under this subchapter may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the Tax Commission within two years after publication of the notice required by Section 62.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 172. Determination of Claims

(A) The Tax Commission shall consider any claim filed under this subchapter and may hold a hearing and receive evidence concerning it. If a hearing is held, the Commission shall prepare a finding and decision in writing on each claim filed, stating the substance of any evidence heard by it and the reasons for its decision. The decision shall be a public record.

(B) Upon approval by the Tax Commission the claim shall be paid forthwith from the Unclaimed Property Fund. The claim shall be paid after deduction for costs of notices or sale or for service charges.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 173. Judicial Action upon Determinations

Any person aggrieved by a decision of the Tax Commission, or as to whose claim the Tax Commission has failed to act within ninety (90) days after the filing of the claim, may commence an action in the District Court to establish his claim. The proceeding shall be brought within ninety (90) days after the decision of the Tax Commission and within one hundred eight (180) days from the filing of the claim, if the Tax Commission fails to act.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 174. Election to Receive Property

The Tax Commission, after receiving reports of property deemed abandoned pursuant to this subchapter may decline to receive any property reported which it deems to have a value less than the cost of giving notice and holding sale, or said Commission may, if deemed desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 175. Examination of Records

(A) If the Commission has reason to believe that any person has failed to report property in accordance with this subchapter, it may make a demand by certified mail, return receipt requested, that such report be made and filed with the Commission. The report of abandoned property or any other report required shall be made and filed with the Commission within sixty (60) days after receipt of the demand.

(B) The Commission may at reasonable times and upon reasonable notice examine the records of any person if the Commission has reason to believe that such person has failed to report property that should have been reported pursuant to this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 176. Proceeding to Compel Delivery

(A) If any person refuses to deliver property to the Commission as required under this subchapter, the Commission shall bring an action in a court of appropriate jurisdiction to enforce such delivery.

(B) The actual cost of any examination or investigation incurred by the Commission in administering any provision of this subchapter shall be borne by the holder examined or investigated, *provided*:

(1) A written demand for a report shall have been made and not forthcoming in time specified in Section 76; or

(2) A report has not been received, and the examination or investigation by the Commission establishes that the holder willfully or without reasonable cause has failed to report property reportable under this subchapter and property reportable thereunder is discovered by such examination or investigation; or

(3) A report has been received and the examination or investigation by the Commission establishes that the holder willfully or without reasonable cause has failed to report additional property reportable under this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 177. Penalties

(A) Any person who willfully fails to render any report or perform other duties required under this subchapter shall for each day such report is withheld forfeit a penalty of not more than five hundred dollars (\$500.00) per day.

(B) Any person who willfully refuses to pay or deliver abandoned property to the Tax Commission as required under this subchapter shall forfeit a penalty of not more than \$500.00 per day for each day such delivery is withheld.

[PUBLIC LAW #SF-84-89, July 27, 1989.]

Section 178. Escheat

Any property which remains unclaimed for a period of two years after publication of the notice required by Section 62(a) shall escheat to the Sac and Fox Nation and shall be transferred from the Unclaimed Property Fund to the general unappropriated monies in the Treasury Account.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 179. Rules and Regulations

The Tax Commission is hereby authorized to make necessary rules and regulations to carry out the provisions of this Subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER D
EXEMPT PROPERTY

Section 181. Exempt Property

(A) Except as otherwise provided in this subchapter and notwithstanding subsection (b) herein, the following property shall be reserved to every person residing in the jurisdiction of the Sac and Fox Nation, exempt from attachment or execution and every other species of forced sale or seizure for the payment of debts, except as herein provided.

- (1) The homestead of such person, *provided* that such homestead is the principal residence of such person.
- (2) A manufactured home, *provided* that such home is the principal residence of such person.
- (3) All household and kitchen furniture held primarily for the personal, family or household use of such person or a dependent of such person.
- (4) Any lot or lots in a cemetery held for the purpose of sepulcher.
- (5) All implements of husbandry used upon the homestead.
- (6) All tools, apparatus and books used in any trade or profession of such person or a dependent of such person.
- (7) All books, portraits and pictures, and wearing apparel, that are held primarily for the personal family or household use of such person or a dependent of such person.
- (8) All professionally prescribed health aids for such person or a dependent of such person.
- (9) Twenty milk cows and their calves under six (6) months old.
- (10) One hundred chickens.
- (11) Two horses and two bridles and two saddles, that are held primarily for the personal, family, or household use of such person or a dependent of such person.
- (12) Such person's interest in one motor vehicle.
- (13) Two guns held primarily for the personal, family or household use of such person or a dependent of such person.

(14) Twenty hogs and their young under 250 pounds.

(15) Forty head of sheep, goats, and other domesticated stock, and their young under one year of age, that are held primarily for the personal, family or household use of such person or a dependent of such person.

(16) All provisions and forage on hand, or growing for home consumption, and for the use of exempt stock for one (1) year.

(17) Seventy-five percent (75%) of all current wages or earnings for personal or professional services earned during the last ninety (90) days, except as provided in proceedings for collection of child support.

(18) Such person's right to receive alimony, support, separate maintenance or child support payments to the extent reasonably necessary for the support of such person and any dependent of such person.

(19) Such person's interest in a claim for personal bodily injury, death or workers' compensation claim, for a net amount not in excess of Fifty Thousand Dollars (\$50,000.00), but not including any claim for exemplary or punitive damages.

(20) All ceremonial or religious items.

(21) Trust or restricted title to any Indian allotment, except pursuant to a foreclosure sale on a mortgage approved by the Secretary of the Interior or his authorized representative pursuant to federal law.

(B) No natural person residing in this jurisdiction may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of Section 522 of the Bankruptcy Reform Act of 1978 (U.S. Public Law 95-598) except as may otherwise be expressly permitted under this title or other statutes of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 182. Order Exempting Earnings from Personal Services

(A) Following the issuing of an execution, attachment or garnishment process, except process to collect judgment or order for child support or maintenance of children, by any court, the debtor, if a resident of this jurisdiction, may file with the District Court his verified application for an order exempting from such process his earnings for his personal services rendered at any time during the ninety (90) days next preceding the issuing of such process. If the application shall state that such earnings are necessary for the maintenance of a family supported wholly or partly by the labor of the defendant, thereupon, the court shall issue an order substantially in the following form:

“In the District Court
Sac and Fox Nation

A.B., Plaintiff v. C.D., Defendant.

Order Exempting Earnings

TO SAID A.B., PLAINTIFF.

On this the ___ day of _____, 19 ___, the defendant, C.D., having filed herein his verified Application for Order Exempting Earnings From Process, it is therefore ordered, adjudged and decreed that, the earnings of the said defendant, C.D., for his personal services rendered at any time during the ninety days preceding the issuing herein of an execution, attachment or garnishment process on the ___ day of _____, 19 ___, are exempt from said process and cannot be applied to the payment of the debt of the said C.D. to the said plaintiff, A.D.

You are hereby notified that you may show cause, if any there be, on the ___ day of _____, 19_____, at _____ .m. o'clock, before the judge to whom this case is regularly assigned as to why this order should be modified or vacated and set aside.

Judge”

(B) The time fixed in said order to show cause shall be not less than five (5) nor more than twenty (20) days from the date the order is entered. Such order shall be served on the plaintiff, or his attorney of record, personally or by certified mail, return receipt requested. At the time set forth in the order, if it shall be made to appear to the satisfaction of the judge that all or any part of such earnings are not necessary for the maintenance of a family supported wholly or partly by the labor of the said defendant, then the order shall accordingly be vacated or modified.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 183. Homestead

The homestead of any family in this jurisdiction or the homestead of a single, adult person in this jurisdiction, whether or not within any Sauk Indian Community, shall consist of not more than three hundred twenty (320) acres of land, which may be in one or more parcels, to be selected by the owner. Any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 184. Persons Not Protected

The exemption herein provided for must not be construed to apply to the following persons, namely:

(A) To a nonresident.

(B) To a debtor who is in the act of removing his family from the jurisdiction of the Sac and Fox Nation, or, who has absconded, taking with him his family.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 185. Homestead Exceptions Inapplicable

The exemption of the homestead provided for in this subchapter shall not apply where the debt is due:

(A) For the purchase money of such homestead or a part of such purchase money.

(B) For taxes or other legal assessments due the Sac and Fox Nation.

(C) For work and material used in constructing improvements thereon with the prior consent of the owner.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 186. Exempt Personalty Subject to Attachment or Execution for Wages

None of the personal property mentioned in this chapter, shall be exempt from attachment or execution for wages of any clerk, mechanic, laborer or servant employed by the owner.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 187. Pension Money Exempt

There shall also be exempt from levy and sale upon execution or attachment to every resident of this jurisdiction who became disabled in the service of the United States as a soldier, sailor, airman, or marine, and any person disabled in the service of the Sac and Fox Nation, all pension money hereafter received belonging to such person.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 188. No Exemption on Debt Due Government

Notwithstanding anything in this subchapter, no personal property other than ceremonial or religious items shall be exempt from attachment, execution, or other forced sale for payment of a debt due to the Sac and Fox Nation or any Agency thereof except as otherwise specifically provided by law.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 189. Status of Homestead Patented Lands

All lands held pursuant to a homestead patent shall be considered as exempt homestead property as described in this subchapter, *provided*, that the owner of such homestead patented lands shall have the right to declare a homestead exemption where appropriate on other lands owned by him under a general patent to the same extent as persons who do not own homestead patented lands, provided that the maximum limitation on homestead size is not exceeded.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

CHAPTER TWO

ASSIGNMENTS OF REAL PROPERTY OF THE SAC AND FOX NATION

Section 201. Definition of Real Property of the Nation

“Real Property of the Sac and Fox Nation,” or “lands of the Sac and Fox Nation,” or words of similar import means real property which is either:

- (A) Held by the United States in trust for the Sac and Fox Nation or its agencies, or
- (B) Held by the Sac and Fox Nation or its agencies subject to a restriction against alienation imposed by the United States, and
- (C) No patent shall be issued under this act for any lands of the Sac and Fox Nation which were owned by the Sac and Fox Nation on July 24, 1987 absent the consent of the Governing Council.
- (D) Lands allotted to individual Indians pursuant to the laws of the United States are not Real Property of the Sac and Fox Nation for purposes of this Chapter unless the individual owner voluntarily chooses to sell or convey their interest to the Nation. Individual Indian owners of allotted lands may, at their discretion, convey their interest to the Nation and receive in return a patent to that interest in those lands or other lands which may be agreed upon.

[Added by PUBLIC LAW #SF-07-88, February 5, 2007.]

Section 202. Patents

(A) A patent is the written instrument by which the Sac and Fox Nation grants and assigns to a person or persons the right to exclusive use, possession, dominion, control, ownership and disposal of its public lands under its laws pursuant to paragraph “f.” of Article VII of the Federal Corporate Charter of the Sac and Fox Nation ratified July 24, 1987, and the inherent power of the Sac and Fox Nation to assign its real property as recognized by *Johnson v McIntosh*, 21 U.S. (8 Wheat.) 543 (1823).

(B) The making of an assignment of real property of the Sac and Fox Nation by issuance of a patent is not intended, and shall not be construed, to affect the title of the Sac and Fox Nation secured by Federal or State law, whether such real property be held in trust by the United States or held in fee by the Sac and Fox Nation subject to the restrictions against alienation imposed by 25 U.S.C. §177, or other federal law.

(C) All real property patented under this title shall remain Indian Country as defined in 18 U.S.C. §1151, and shall remain subject to the exclusive jurisdiction of the Sac and Fox Nation, and the rights of the Patentee, and the rights of the heirs, devisees, successors, and assigns of the patentee, shall forever be subject to the laws of the Sac and Fox Nation now effective or hereafter enacted.

(D) All questions of use, possession, dominion, control, ownership, and disposal of real property granted by patent shall be determined exclusively by reference to the laws of the Sac and Fox Nation, including the Sac and Fox common law.

(E) The issuance of a patent as provided by law creates a property interest in the land in the owner thereof, and the holder's heirs, successors, and assigns which is enforceable against the Sac and Fox Nation and its agencies, and which may not be taken for public use without payment of just compensation.

[PUBLIC LAW #SF-89-89 July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 203. Types of Assignments and Patents

There shall be two types of assignments and patents of real property issued pursuant to paragraph "f." of Article VII of the Charter of the Sac and Fox Nation as follows:

- (A) A homestead assignment evidenced by a Homestead Patent.
- (B) A general assignment evidenced by a General Patent.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 204. Real Property Records Are Public Records

(A) All patents issued, and every written instrument filed for record in any office of the Sac and Fox Nation affecting the use, possession, dominion, control, ownership, or disposal of the real property conveyed by any such patent are declared to be public records and any person shall have the right to obtain a copy of any such patent or instrument upon request and paying the appropriate fees.

(B) Copies of such patents or instruments certified in the normal manner by the custodian of the records of the office in which such record is filed as being a true copy of the patent or instrument as it appears of record in that office, shall be admissible in evidence in the courts of the Sac and Fox Nation equally with the originals thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 205. Form and Limitation of Patents

(A) All patents issued shall be substantially in such form as may be provided in this Title, or approved by the Attorney General from time to time.

(B) No patent shall be interpreted or construed as vesting in the patentee, his heirs, successors, or assigns, any greater interest in the patented properties than the interest which is owned by the Sac and Fox Nation and provided by this Title to be held in private ownership according to the laws of the Sac and Fox Nation.

(C) The interest conveyed by a patent remains subject to any lawful enforceable interests which existed in the property as of the date of acquisition of title by the Sac and Fox Nation, and any interests which exists of record.

(D) These limitations exist regardless of whether these limitations appear on the face of the patent or any instrument relating thereto in the chain of title.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 206. Triplicate Originals of Patents to Be Issued

Three originals of each patent issued shall be executed and attested.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 207. Disposition of Triplicate Originals of Patents

(A) One original of each patent issued shall be filed in the Office of the Secretary of the Sac and Fox Nation and properly indexed by grantee and legal description.

(B) One original of each patent issued shall be delivered to the office of the Attorney General to be filed by him in the office of the clerk of the District Court of the Sac and Fox Nation. The Attorney General may copy such patent for his files. The Clerk of the District Court shall properly index the patent by grantee and legal subdivision., and maintain said patent in his office in a book kept for that purpose.

(C) One original of each patent, file stamped by the Secretary of the Sac and Fox Nation and the clerk of the District Court of the Sac and Fox Nation shall be delivered to the grantee, or some one of them if more than one grantee be named in the patent.

[PUBLIC LAW #SF-89-89 July 27, 1989.]

Section 208. Real Property Eligible for Assignment and Patents

(A) Real property owned by the Sac and Fox Nation on the 24th day of July, 1987, may be patented by the Business Committee only with the consent of the Governing Council.

(B) Real property acquired by the Sac and Fox Nation by expenditure of tribal funds, or for other substantial consideration after the 24th day of July, 1987 may be patented only for adequate consideration, and only with the prior consent of the Business Committee expressed by resolution.

(C) Where, the conveyance to the Sac and Fox Nation or other agency of the Sac and Fox Nation is a gift, or the land is conveyed without significant consideration compared to the value of the property, or where in the instrument of conveyance to the Sac and Fox Nation, or other paper attached thereto, it is indicated that the real property is conveyed for the purpose of being patented under this Title, the real property, upon acceptance, shall be patented in accordance with the instrument of conveyance or other paper describing the patent to be issued unless the grantor indicates in writing that no patent is desired.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 209. Form of Resolution Authorizing Assignment and Patent

(A) The resolution authorizing assignment and patent of real property of the Sac and Fox Nation shall state the legal description of the real property whose assignment is authorized, the type of patent to be issued, the date of acquisition of the property, and whether claims money or interest earned on claims money was expended to purchase the real property. The resolution may state such other terms, conditions, or limitations on the authority to issue the patent as may be appropriate and not inconsistent with this Chapter.

(B) No separate resolution shall be necessary for a patent to issue upon lands conveyed to the Nation without consideration, or without significant consideration compared to the value of the property, and the patent shall issue to the grantor or the grantor's nominee immediately upon acceptance of the conveyance.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 210. Fees

Prior to issuance of any patent, the patentee shall pay the following fees:

(A) A twenty-five dollar (\$25.00) patent issuance fee payable to the Sac and Fox Nation. The proceeds of the issuance fee shall be deposited in the treasury account to defray the expense of issuing the patent.

(B) A ten dollar (\$10.00) filing fee payable to the Sac and Fox Nation. The proceeds of the filing fee shall be deposited in the court fund to defray the cost of keeping and filing the record of the patent in the Court Clerk's office.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 211. Patents Are in Lieu of Allotment

Patents issued pursuant to this Chapter shall be in lieu of allotment of the common lands of the Sac and Fox Nation pursuant to the General Allotment Act, 25 U.S.C. §331, Act of February 8, 1887, ch. 119, 24 Stat. 338, as amended.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 212. Patents Do Not Convey Mineral Rights

Patents shall not convey any interest in oil, gas, coal or other hydrocarbon substances, metallic or non-metallic ores or other valuable solid, liquid, or gaseous compounds, subsurface substances, or chemical elements unless expressly so stated in the conveyance to the Sac and Fox Nation in furtherance of the patent or expressly authorized by the resolution approving the patent, if any, provided, that a patent shall be deemed to convey the right to use so much of the surface or ground water, gravel, sand, and similar substances as may be necessary for the proper development of the surface for residence or agricultural usages, or for subsistence.

[Added by PUBLIC LAW #SF-07-88, February 5, 2007.]

Section 213. Easements Upon Patents

(A) Every Patent shall be subject to a public right-of-way and utility easement thirty (30) feet wide along each exterior boundary in favor of the Nation, and those authorized by the Nation, to use as a right-of-way or for the placement of utilities.

(B) All rights under a Patent remain subject to the traditional and customary servitude as provided in Section 110(C) of this Title.

[Added by PUBLIC LAW #SF-07-88, February 5, 2007.]

SUBCHAPTER A
CONVEYANCES FOR ISSUANCE OF PATENT

Section 221. Authorization

Any person may convey real property located within the areas described in Article I of the Articles of Agreement made and entered into at the seat of Government of the Sac and Fox Nation in the Indian Territory on the twelfth day of June eighteen hundred and ninety, by and between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, Commissioners on the part of the United States, appointed for that purpose, and Ma-Ka-Sa-To, Principal Chief and Moses Keokuk, First Assistant Principal Chief on the part of the Sac and Fox Nation, and Article 2 of the Treaty between the Sac and Fox Nation and the United States made and entered into at St. Louis on November 4, 1804, and not within the reservation area of any other Indian Tribe, to the Sac and Fox Nation for the purpose of having said real property patented under this Title to the grantor, the grantor's nominee, or for the general benefit of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 222. Acceptance of Conveyance to Sac and Fox Nation

(A) All lands acquired by the Sac and Fox Nation shall be taken in the name of the United States in trust for the Sac and Fox Nation pursuant to Sections 5 and 17 of the Act of June 18, 1934, 48 Stat. 985 (25 U.S.C. §§465, 477) and are subject to the restrictions imposed by said Section 17 and the corporate charter.

(B) The Sac and Fox Attorney General shall approve all conveyance documents for legal sufficiency, and, prior to the expenditure of any funds by the Nation in payment for any interest in lands, the Attorney General, or some attorney authorized by him, shall issue an opinion that the title to the real property contracted for will be received upon execution of the conveyance documents.

(C) Upon approval of the conveyance documents, and the legal title where tribal or corporate funds are being paid for said lands, the agent for the Nation is authorized to pay sums due, execute any note, mortgage, or other financing instrument for the purchase money for said property, and receive the approved documents conveying title to the property. The conveyance documents shall convey title to the property to the "United States in trust for the Sac and Fox Nation," and the conveyance documents shall be promptly delivered to the tribal realty office for acceptance and processing.

(D) The tribal realty office shall accept and execute the approval of such conveyances pursuant to Sections 5 and 17 of the Act of June 18, 1934, 48 Stat. 985, cause the approved conveyance instruments to be filed of record in the appropriate state or federal land title recording system, cause the approved conveyance instruments to be filed of record in the land title recording system of the Sac and Fox Nation, issue any patent to said lands which is

authorized or required pursuant to the property laws of the Sac and Fox Nation, record the patent in the land title recording system of the Sac and Fox Nation, and deliver the patent to the proper owner of the property. The acceptance by the realty officer shall be in substantially the following form:

The foregoing instrument is approved pursuant to the authority contained in Sections 5 and 17 of the Act of June 18, 1934, 48 Stat. 985; Section 3 of the Act of June 26, 1936, (49 Stat. 1967); Article VII of the Charter of the Sac and Fox Nation, and Public Law #SF-89-89 July 27, 1989, as amended by Public Law #SF-07-88, February 5, 2007.]

Realty Officer

(E) One copy of each conveyance recorded in a state or federal land title system shall be forwarded by the tribal realty office to the Secretary of the Interior in order for the Secretary to enforce the restrictions against certain transfers of the American title to such properties contained in Section 17 of the Act of June 18, 1934, 48 Stat. 985.

(F) If the lands acquired were gifted or donated without cost to the Nation, the realty officer shall promptly issue a patent pursuant to tribal property law to the person who donated said lands or their nominee, unless that person expressly waives their right to receive such patent in writing. Any lands so acquired shall remain subject to any rights of third parties which are of record in the state or federal title recording system applicable to said lands on the date of conveyance.

[Added by PUBLIC LAW #SF-07-88, February 5, 2007.]

Section 223. Conversion to Trust Status

Land conveyed to the Sac and Fox Nation for the purpose of being patented will be placed in trust status as soon as possible pursuant to federal law.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 224. Pre-existing Rights

All pre-existing rights of lien-holders, remainder-men, tenants, creditors, and claimants existing on the date of conveyance to the Sac and Fox Nation shall not be abridged, but shall be fully enforceable in the Courts of the Sac and Fox Nation against the patentee, his heirs, successors, and assigns to the same extent and under the same conditions as if such conveyance and patent had not occurred. The Courts of the Sac and Fox Nation, in such cases, shall apply their own rules of procedure, but the substantive rights of the parties not consenting in writing to the conveyance shall be governed by the law of the jurisdiction which was applicable to such real

property prior to the conveyance to the Sac and Fox Nation to the end that the rights of those persons not consenting to the conveyance and patent shall not be diminished.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 225. Designation of Patentee

(A) The deed of conveyance, or other instrument attached thereto, may designate the patentee by name, or may state that the conveyance is for assignment by patent to “a person or persons to be designated by the grantor” or words to similar effect, in which case the patentee shall have a period of five (5) years from and after the date of acceptance of the conveyance in which to designate a specific patentee. The grantor may, at his option, designate more than one patentee for one tract of real property, or cause the tract donated to be patented in parcels.

(B) A designation of the patentee by the grantor, other than one contained in the deed of conveyance to the Sac and Fox Nation, shall be acknowledged in the same manner as a deed is acknowledged.

(C) If the grantor fails to make a designation during said five (5) year period, as to any portion of the tract by him conveyed to the Sac and Fox Nation, the grantor’s right to designate the patentee to such undesignated portions shall lapse, and the real property conveyed and not designated by the grantor shall thereafter be subject to the use or disposal of the Sac and Fox Nation, and the grantor shall thereafter have no further rights in such undesignated real property.

(D) The right to designate the patentee of real property after conveyance to the Sac and Fox Nation may be transferred, assigned, or conveyed in the same manner that other interests in real property may be transferred, assigned, or conveyed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 226. Right of Action for Conveyance

In consideration of the conveyance of property, or the lawful completion of any condition precedent to the issuance of a Patent pursuant to the laws of the Sac and Fox Nation, the sovereign immunity of the Sac and Fox Nation, the Sac and Fox Tribe, Inc., and their political or corporate subdivisions is forever waived in the Courts of the Sac and Fox Nation for the following claims:

(A) A Claim that a Patent for property to which claimant is lawfully entitled pursuant to the laws of the Sac and Fox Nation has not been properly executed, issued, filed, and delivered within six months after the date the United States accepts title to said property in trust for the Sac and Fox Nation, or the date the Sac and Fox Nation accepts title on behalf of the United States, or accepts a fee title subject to federal restrictions against alienation, or the date the patentee is

identified and a patent requested if later, or that the proper execution, issuance, filing, or delivery of any patent has been otherwise unlawfully withheld.

(B) A claim for the right of ownership or possession of land to which the plaintiff or plaintiff's predecessor in interest has a right, or is claiming a right direct or remote, pursuant to a Patent issued according to the property laws of the Sac and Fox Nation. Claims under this provision may be brought under the theory of inverse condemnation, but if judgement for the plaintiff is given in such a case, the defendant shall have the option to either:

(1) pay the fair market value of said property, with interest from the date of wrongful seizure, and retain the ownership and use thereof, or

(2) return the property to the plaintiff and pay such amount as the court shall determine to be equitably due as fair rental value for the term such property was wrongfully used by the defendant, with interest.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Sections 227-240. Reserved

SUBCHAPTER B
HOMESTEAD PATENTS

Section 241. Homestead Patent Defined

A homestead patent is the written instrument by which the Sac and Fox Nation grants and assigns to a member of the Sac and Fox Nation the right to exclusive use, possession, control, ownership, and disposal of a portion of its public lands under its law pursuant to paragraph “f.” of Article VII of the Federal Corporate Charter of the Sac and Fox Nation ratified July 24, 1987, and the inherent power of the Sac and Fox Nation to assign its real property.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 242. Purpose of Homestead Patents

(A) The purpose of homestead patent shall be to allow the use of public land by a member of the Sac and Fox Nation, and his or her family, as a home site and place of residence.

(B) The Sac and Fox Nation shall have a right of action to enjoin the use of real property held by a homestead patent in a manner inconsistent with the use of such property as a residence.

(C) For purposes of this section, the term “residence” includes family farms and related pursuits, and small family businesses that are not inconsistent with the use of the homestead for residential purposes.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 243. Reserved

Section 244. Eminent Domain

The rights granted in homestead patent are subject to the laws of eminent domain of the Sac and Fox Nation, *provided*, that the value of any real property taken in eminent domain proceedings shall be limited to the higher of the amount paid for such real property or the maximum allowable in a conveyance of such real property under this subchapter, and the value of any improvements taken in eminent domain proceeds shall not exceed the higher of the cost paid to construct such improvements or the market value thereof without regard to the maximum allowable in a conveyance of such improvements under this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 245. Limitation on Ownership of Homestead Patents

(A) Title to real property under a homestead patent may be held only by a member of the Sac and Fox Nation, the Housing Authority of the Sac and Fox Nation, and the Sac and Fox Nation.

(B) A non-member of the Sac and Fox Nation may hold a life estate in real property under a homestead patent, although title to such real property must pass to a member of the Sac and Fox Nation or escheat to the Sac and Fox Nation.

(C) A non-member of the Sac and Fox Nation who, in a divorce proceeding in a court of competent jurisdiction, is awarded custody of one or more minor member(s) of the Sac and Fox Nation may be awarded possession of, but not title to, real property held under a homestead patent for a period ending when the youngest of said children reaches the age of eighteen, or when the non-member no longer has custody of said minor member(s), whichever comes first.

(D) Notwithstanding any other provision of law, a non-member Indian who is a participant in a housing program or project of the Housing Authority of the Sac and Fox Nation shall be considered a member of the Sac and Fox Nation for the limited purpose of allowing that person, their children, grandchildren, and other direct descendants to hold title to a homestead patented tract of real estate which that person acquired from the Housing Authority of the Sac and Fox Nation as a result of any housing program or project, or a similar tract traded with another such participant with the approval of the Housing Authority of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 246. Limitation on Conveyances

No conveyance of any interest in real property held under a homestead patent whether voluntary or involuntary, by operation of law or otherwise (except as provided in Section 245 of this title, or a tax sale under the laws of the Sac and Fox Nation), shall be of any effect in law or equity unless said conveyance first be approved in writing by the Housing Authority of the Sac and Fox Nation under such rules and regulations as the Housing Authority may provide.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 247. Limitation on Price Paid for Conveyance

(A) It being the purpose of the homestead patent system to ensure that real property upon which to make a home will always be affordable for every member of the Sac and Fox Nation, the Housing Authority shall approve the price to be paid for any conveyance, and no price higher than that approved by the Housing Authority may be lawfully collected.

(B) Real property held under a homestead patent may not be conveyed, and the Housing Authority shall not approve any attempted conveyance, for a price exceeding.

(1) \$75.00 for each acre of real property having no permanent building thereon, and

(2) \$3,000 for each acre of real property having a permanent building thereon.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 248. Housing Authority to Regulate Homestead Patents

(A) All real property purchased by the Sac and Fox Nation for more than nominal consideration, and designated by the proper authority as a homestead area, shall be subject to the provisions of this section. It is specifically declared, as a matter of legislative determination, that the acquisition of homestead areas is a governmental purpose in furtherance of the public health, safety, and welfare for which public money may be spent.

(B) A copy of each designation of real property as an area subject to assignment by homestead patent shall be delivered to the Housing Authority of the Sac and Fox Nation.

(C) If any portion of such area will be needed within twelve months by the Housing Authority for use as a home site for any home ownership program, or subsidized housing program, the Housing Authority may request that a homestead patent be issued to the Authority for such portion of the real property as is needed for home sites.

(D) If no portion of such area will be needed within twelve months by the Housing Authority for use as home sites, or if any portion of said real property is not needed for such purpose, the surplus portion shall be subdivided by the Housing Authority into homestead lots of not less than 2.5 rural acres nor more than 10 rural acres, or into suitable town lots.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 249. Application for Homestead Certificate

Those members of the Sac and Fox Nation desiring to acquire a homestead tract described in the proceeding section shall make application therefore to the Housing Authority of the Sac and Fox Nation on such forms as the Housing Authority shall provide.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 250. Preference Categories for Homestead Certificates

(A) The Housing Authority shall divide the applications into the following preference categories:

(1) Those members who are not eligible for subsidized housing assistance in any federal housing program, and who do not own at least 2.5 rural acres in federal trust or pursuant to the law of the Sac and Fox Nation within the Sac and Fox Reservation.

(2) Those members who are eligible for subsidized housing assistance, and who do not own at least 2.5 rural acres in trust or pursuant to the law of the Sac and Fox Nation within the Sac and Fox Reservation.

(3) All other members of the Sac and Fox Nation.

(4) Individual Indians not members of the Sac and Fox Nation who qualify for federal housing assistance under federal programs.

(B) Within each preference category, the rule shall be first come, first served, for the purpose of receiving a homestead certificate.

(C) An undivided interest in a Sac and Fox Indian trust allotment shall not be considered ownership of land for the purpose of this section unless the individual owns more than 5 undivided acres, and there are less than ten persons holding undivided interests in such tract.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 251. Issuance of Homestead Certificate

(A) Upon receipt of notice that a tract has been set aside as a homestead area, and upon completion of dividing the tract into suitable homestead lots, the Housing Authority shall offer the person in category one having the application first in time that persons choice of available homestead lots, then the person in category one having the application second in time and so on until all lots have been chosen or all persons served.

(B) Any person may, without losing his preference position, waive his right to select any of the available homestead lots. Such waiver may be in writing and in such case shall be irrevocable until all other persons having an approved application on file at the time of the waiver shall have had the opportunity to receive one of the available lots. A waiver shall be presumed if the applicant does not select a lot within 90 days after notice from the Housing Authority that lots are available, and in such cases the Housing Authority may issue a homestead certificate to a junior applicant without liability.

(C) Upon being notified by the applicant of the lot chosen by that applicant, the Housing Authority shall issue to that applicant a homestead certificate in such form as the Attorney General shall provide. The homestead certificate shall entitle the holder thereof to possession of the homestead lot, the right to use and improve the lot in the same manner as an owner subject to this Title, and to obtain a homestead patent upon compliance with the provisions of this Chapter.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 252. Consideration for and Issuance of Homestead Patent

(A) Within one year after issuance of the homestead certificate, the certificate holder shall pay to the Sac and Fox Nation the sum of Five Dollars (\$5.00) per acre for each acre or fraction thereof conveyed to the patentee.

(B) Within five years after issuance of the homestead certificate, the certificate holder shall have constructed or placed thereon an improvement suitable for a home for the certificate holder (including dwellings of rock, frame, brick or similar construction, mobile homes, bark houses, or other traditional dwellings).

(C) The certificate holder shall actually and continuously occupy, as the certificate holder's home, the improvement for a period of two years after it is constructed or placed upon the real property.

(D) Upon verification by the Housing Authority that the foregoing conditions have been successfully completed, the Housing Authority shall file on the public records its certification, and thereafter the homestead patent shall be issued to the certificate holder, subject to the laws of the Sac and Fox Nation. Refusal of the Housing Authority to certify the completion of the above requirements may be reviewed by the Sac and Fox Courts upon filing of a petition for review within ninety {90} days after notice of the Housing Authority's refusal to issue its certification.

(E) This section shall not apply to real property conveyed to the Sac and Fox Nation by any person, including the Housing Authority of the Sac and Fox Nation, for the purpose of being assigned to the grantor or the grantor's nominee in which case the patent shall issue forthwith.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 253. Extinguishment of Homestead Interests

(A) Should the certificate holder fail to satisfy the applicable conditions, the Housing Authority shall file on the public records its certification to that effect signed by its Chairman, and the homestead certificate shall thereafter be null and void and the real property shall

thereafter be available for reassignment. The certification by the Housing Authority of failure to satisfy the applicable conditions may be reviewed by the Sac and Fox Courts upon filing of a petition for review within ninety (90) days after notice of the Housing Authority's certification.

(B) Should a life tenant or tenant for a period of time under this Subchapter fail to maintain their home on the homestead patented real property for a period of two years, the owner may maintain an action in the Sac and Fox District Court to declare such term terminated and to obtain possession of the real property.

(C) Should an owner having the right to immediate possession of homestead property fail to maintain their home on the homestead patented real property for a period of two years, the Housing Authority shall direct the Attorney General to bring an action in the Sac and Fox District Court to declare the homestead abandoned, and if so declared, the homestead shall escheat to the Sac and Fox Nation and shall thereafter be conveyed by the Sac and Fox Nation to some eligible person as a homestead. Persons who are temporarily absent to attend an educational institution, or for other cause and who have the intent to return within a reasonable period in the opinion of the Court may be allowed to maintain their ownership for such period subject to any order the court deems necessary to carry out the purposes of this subchapter and to protect the interests of the parties.

(D) This section shall not apply to real property conveyed to the Sac and Fox Nation by any person, including the Housing Authority of the Sac and Fox Nation, for the purpose of being assigned to the grantor or the grantor's nominee.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 254. Release and Transfer to General Patent

(A) Any person who has conveyed property to the Sac and Fox Nation to be assigned by homestead patent, or their heirs, devisees, successors, or assigns then holding title to a portion of said property, and with the consent of all persons holding an interest in said property, may surrender the homestead lot to the Sac and Fox Nation for the purpose of receiving without charge a general patent to said property unless the original conveyance or some interim conveyance prohibits such action. Such surrenders shall be considered as a conveyance to the Sac and Fox Nation for the purpose of receiving an assignment by patent, and no further approval of the issuance of a general patent shall be necessary.

(B) Land purchased by the Sac and Fox Nation or its agencies and assigned by homestead patent may be surrendered with the consent of the Business Committee or Governing Council as may be appropriate, the current owner thereof, and all other persons having any interest therein, for the purpose of receiving a general patent to said property. In such cases, the person receiving the general patent shall pay to the Sac and Fox Nation the appraised value of the land without regard to any improvements placed thereon by any person holding the land pursuant to the homestead certificate or homestead patent as the case may be.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 255. Escheat

Whenever the owner of real property held pursuant to a homestead patent, immediate or remote, dies leaving no heirs or beneficiaries under a will eligible to own said homestead property, the homestead property shall escheat to the Sac and Fox Nation who may use same for its governmental purposes, or sell the same under such terms and conditions as may be provided by law.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 256. Form of Homestead Patents

Homestead Patents shall be in substantially the following form:

**THE SAC AND FOX NATION
HOMESTEAD PATENT TO LAND**

To All to whom these Presents shall come, Greeting:

Whereas, a lawful request pursuant to the Sac and Fox Code of Laws has been made to set aside a tract of public land of the Sac and Fox Nation to provide Homesteads to members of the Sac and Fox Nation; and

Whereas, _____, is a person eligible to receive a Homestead Patent and has fulfilled all conditions precedent to the issuance of these Letters Patent as established by the Constitution, Charter, and Laws of the Sac and Fox Nation; and

Whereas, the issuance of this patent is authorized by law; and

Whereas, this patent is not intended, and shall not be construed, to affect the title of the Sac and Fox Nation secured by Federal or State law, and all such lands shall remain Indian Country as defined in 18 U.S.C. §1151, and shall remain subject to the exclusive jurisdiction of the Sac and Fox Nation. The rights of the Patentee, and the rights of the heirs, devisees, successors, and assigns of the patentee, shall forever remain and be subject to the laws of the Sac and Fox Nation now effective or hereafter enacted, and all questions of use, possession, dominion, control, ownership, and disposal of the real property granted by this patent shall be determined exclusively by reference to the laws of the Sac and Fox Nation;

Now, Therefore, Know Ye, that in consideration of the premises, and in accordance with its Constitution, Charter, and Laws, the Sac and Fox Nation, does hereby **PATENT, GRANT, ASSIGN, LICENSE, PERMIT, AND CONVEY** the following described tract of land and premises, to-wit:

SUBCHAPTER C
GENERAL PATENTS

Section 261. General Patent Defined

A general patent is the written instrument by which the Sac and Fox Nation grants and assigns to a citizen of the Sac and Fox Nation the right to exclusive use, possession, control, ownership, and disposal of a portion of its public lands under its law pursuant to paragraph “f.” of Article VII of the Federal Corporate Charter of the Sac and Fox Nation ratified July 24, 1987, and the inherent power of the Sac and Fox Nation to assign its real property.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 262. Purpose of General Patents

The purpose of a general patent shall be to allow the use of public land by a citizen of the Sac and Fox Nation, corporations wholly owned by the Sac and Fox Nation, and their heirs, devisees, assigns, and successors forever, subject to the laws and customs of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 263. Reserved

Section 264. Eminent Domain

The rights granted in a general patent are subject to the laws of eminent domain of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 265. Consideration for General Patents

Unless the real property to be patented has been conveyed to the Sac and Fox Nation without payment, or with only nominal (\$1.00) payment of money or other consideration for the purpose of being patented under this Title, the patentee shall pay to the Sac and Fox Nation at least eighty percent (80%) of the fair market value of the real property to be patented under such terms and conditions as may be provided in the resolution authorizing the patent.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 266. Escheat

Whenever the owner of real property held pursuant to a general patent, immediate or remote, dies leaving no heirs or beneficiaries under a will, the real property shall escheat to the Sac and Fox Nation who may use same for its governmental purposes, or sell the same under such terms and conditions as may be provided by law.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 267. Reserved**Section 268. Release and Transfer to Homestead Patent**

(A) Any person assigned real property by general patent, or the heirs, devisees, successors, or assigns then holding title to a portion of said property, and with the consent of all persons holding an interest in that portion of the property to be surrendered, may surrender the real property or any portion thereof to the Sac and Fox Nation for the purpose of receiving a homestead patent to said property.

(B) Such surrenders shall be a conveyance to the Sac and Fox Nation for the purpose of receiving an assignment by homestead patent, and no further approval of the issuance of the homestead patent shall be necessary.

[PUBLIC LAW #SF-89-89; July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 269. Sale of Land to Be Assigned by General Patent

(A) Sales of surplus real property of the Sac and Fox Nation to be assigned by general patent may be conducted by public or private sale when properly authorized by resolution of the Business Committee.

(B) The allowable methods of sale shall be:

(1) sealed bids

(2) auction

(3) sale through a licensed real estate agent

(4) private negotiations

(C) The Housing Authority of the Sac and Fox Nation shall be charged with conducting and managing any sale subject to the approval of the sale by the Business Committee.

(D) Sales by sealed bids or auctions shall be advertized in a newspaper published within the Sac and Fox Reservation once each week for a period of three consecutive weeks prior to said sale, and in such other manner as the Housing Authority shall determine. If there is more than one bidder upon a sale by sealed bids, the Housing Authority may grant those persons present the right to increase their bids until one person is the high bidder. Upon such advertizement, the sales price bid may be deemed to be at least 80 percent (80%) of the fair market value of the property.

(E) Prior to sale through a real estate agent or through private negotiations, the Housing Authority shall cause the property to be appraised by an independent appraiser to establish the fair market value thereof.

(F) The Housing Authority shall report to the Business Committee the results of any sale made, and upon approval thereof and payment of the purchase price and/or execution of proper note(s) and mortgage documents if any, the general patent shall issue as provided by this Chapter.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 270. Form of General Patent

General Patents shall be in substantially the following form:

THE SAC AND FOX NATION GENERAL PATENT TO LAND

To All to whom these Presents shall come, Greeting:

Whereas, a lawful request pursuant to the Sac and Fox Code of Laws has been made to Patent a tract of public land of the Sac and Fox Nation for the use of private persons pursuant to the Constitution, Charter, and Laws of the Sac and Fox Nation; and

Whereas, _____, is a person eligible to receive a General Patent to Land and has fulfilled all conditions precedent to the issuance of these Letters Patent as established by the Constitution, Charter, and Laws of the Sac and Fox Nation; and

Whereas, the issuance of this patent is authorized by law; and

Whereas, this patent is not intended, and shall not be construed, to affect the title of the Sac and Fox Nation secured by Federal or State law, and all such lands shall remain Indian Country as defined in 18 U.S.C. §1151, and shall remain subject to the exclusive jurisdiction of the Sac and Fox Nation. The rights of the Patentee, and the rights of the heirs, devisees, successors, and assigns of the patentee, shall forever remain and be subject to the laws of the Sac and Fox Nation now effective or hereafter enacted, and all questions of use, possession, dominion, control, ownership, and disposal of the real property

CHAPTER THREE

CONVEYANCES

Section 301. Persons Who May Convey

Any person at least eighteen (18) years of age being otherwise qualified thereto, and all persons upon whom the rights of majority have been conferred, corporations and other associations who may own property in their own name, to the extent and in the manner authorized by law, owning real estate in this jurisdiction may mortgage, convey, or otherwise dispose of, or make any contract relating to real estate or any interest therein, *Provided*, that any persons of whatsoever age, who have been legally married and who are otherwise qualified, may dispose of and make contracts relating to real estate acquired after marriage.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 302. Witness Not Necessary

No subscribing witness shall be necessary to the validity of any deed, mortgage, contract, lease, bond, or other instrument conveying, affecting or relating to real estate.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 303. Attorney-in-fact

Any instrument affecting real estate may be made by an attorney-in-fact, duly appointed and empowered as hereinafter provided.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 304. Necessity of Writing and Signing

No deed, mortgage or other conveyance relating to real estate or any interest therein, other than for a lease for a period not to exceed one (1) year, shall be valid until reduced to writing and subscribed by the grantors; and no deed, mortgage or contract relating to the homestead exempt by law, except a lease for a period not exceeding one (1) year, shall be valid unless in writing and subscribed by both husband and wife, where both are living and not divorced, or legally separated, except to the extent hereinafter provided. For the purpose of purchasing a home with the use of mortgage loan insurance furnished by the Veteran's Administration, written contracts and real estate mortgages executed by the spouse of a person who is certified by the United States Department of Defense to be a prisoner of war, or missing in action, shall not be invalid for the

spouse's non-joinder in their execution. And provided that, notwithstanding anything in this section to the contrary, a deed relating to the homestead shall be valid without the signature of the grantor's spouse, and the spouse shall be conclusively deemed to have consented thereto, where the same shall have been duly recorded in the office of the county clerk of the county where the real estate is situated for a period of ten (10) years, and no action shall have been instituted within said time in the District Court seeking to cancel, avoid or invalidate such deed relating to the homestead by reason of the alleged homestead character of the real estate at the time of such conveyance.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 305. When Husband and Wife May Convey Homestead Separately

Where title to the homestead is in the husband, and the wife voluntarily abandons him for a period of one (1) year or from any cause takes up her residence out of the reservation area, he may convey, mortgage or make any contract relating thereto without being joined therein by her; and where the title to the homestead is in the wife and the husband voluntarily abandons her, or from any cause takes up his residence out of the reservation area for a period of one (1) year she may convey, mortgage or make any contract relating thereto without being joined therein by him. Either spouse may convey their interest in the homestead to the other.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 306. Husband or Wife of Insane Spouse May Convey Homestead

In case of a homestead, if either spouse shall become hopelessly insane, upon application of the husband or wife not insane to the District Court, and upon due proof of such insanity, the court may make an order permitting the husband or wife not insane to sell and convey, lease for oil and gas mining purposes, or mortgage such homestead.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 307. Verified Petition to Be Filed

The applicant shall present and file in the court a verified petition setting forth the name and age of the insane husband or wife; a description of the premises; and such facts in addition to that of the insanity of the husband or wife relating to the circumstances and necessities of the applicant and his family as he may rely upon in support of the petition.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 308. Copy of Petition to Be Served

At least thirty (30) days before the hearing of the petition, the applicant or his attorney shall serve a copy of such petition upon the nearest male relative of such insane husband or wife, resident in this jurisdiction, and in case there be no such male relative known to the applicant, a copy of such petition shall served upon the Attorney General; and it is hereby made the duty of the Attorney General upon being served with a copy of such petition, to appear in court and see that such application is made in good faith and that the proceedings thereon are fairly conducted.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 309. Order of Sale to Be Entered of Record

If the court shall make the order authorizing the sale of the homestead as herein provided, the same shall be entered upon the minutes of the court and thereafter the sale, conveyance, lease, or mortgage made in pursuance of such order shall be as valid and effectual as if the property affected thereby was the absolute property in fee simple of the person making such sale, conveyance, lease or mortgage.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 310. Estoppel by Receiving Benefits

Any person, corporation, or association having knowingly received and accepted the benefits or any part thereof, of any conveyance, mortgage or contract relating to real estate shall be concluded thereby and estopped to deny the validity of such conveyance, mortgage or contract, or the power or authority to make and execute the same, except on the ground of fraud; but this section shall not apply to minors or persons of unsound mind who pay or tender back the amount of such benefit received by themselves.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 311. Constructive Mortgage

All contracts for deed for purchase and sale of real property made for the purpose or with the intention of receiving the payment of money and made for the purpose of establishing an immediate and continuing right of possession of the described real property, whether such instruments be from the debtor to the creditor or from the debtor to some third person in trust for the creditor, shall to that extent be deemed and held mortgages, and shall be subject to the same rules of foreclosure and to the same regulations, restraints and forms as are prescribed in relation to mortgages. No foreclosure shall be initiated, nor shall the court allow such proceedings, unless the documents have been filed of record in the court clerk's office, and mortgage tax paid thereon, in the amount required for regular mortgage transactions. This section shall not apply to

Mutual Help or similar Home ownership programs conducted by Public or Tribal Housing Authorities.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 312. Officer's Deeds Recorded

Deeds executed by the Police Chief of the Sac and Fox Nation or other officer, for real estate sold under execution, order of sale, or pursuant to any order or decree of court, shall be executed, acknowledged and recorded in the manner and with like effect as other deeds.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 313. Conveyance of Separate Property

The husband or wife may convey, mortgage or make any contract relating to any real estate, other than the homestead, belonging to him or her, as the case may be, without being joined by the other in such conveyance, mortgage or contract.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 314. Terms Defined

The words "land," "real estate" and "premises" when used herein or in any instrument relating to real property, are synonyms and shall be deemed to mean the same thing, and unless otherwise qualified, to include lands, tenements and hereditaments; and the word "appurtenances" unless otherwise qualified shall mean all improvements and every right of whatever character pertaining to the premises described.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 315. Necessity of Acknowledgment and Recording

Except as hereinafter provided, no acknowledgment or recording shall be necessary to the validity of any deed, mortgage, or contract relating to real estate as between the parties thereto; but no deed, mortgage, contract, bond, lease, or other instrument relating to real estate other than a lease for a period not exceeding one (1) year and accompanied by actual possession, shall be valid as against third persons unless acknowledged and recorded as herein provided.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 316. Instruments Filed for Record as Constructive Notice

Every conveyance of real property acknowledged or approved, certified and recorded as prescribed by law from the time it is filed with the register of deeds for record in the office of the Court Clerk is constructive notice of the contents thereof to subsequent purchasers, mortgagees, encumbrancers or creditors.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 317. After-acquired Title

All rights of a mortgagor or grantor in and to the premises described in the instrument and existing at the time or subsequently accruing, shall accrue to the benefit of mortgagee or grantee, and be covered by his mortgage or conveyed by his deed, as the case may be.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 318. Quitclaim Conveys What

A quitclaim deed, made in substantial compliance with the provisions of this chapter, shall convey all the right, title and interest of the maker thereof in and to the premises therein described.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 319. Warranty Deed Conveys What - Implied Terms

A warranty deed made in substantial compliance with the provisions of this chapter, shall convey to the grantee, his heirs or assigns, the whole interest of the grantor in the premises described, and shall be deemed a covenant on the part of the grantor, that at the time of making the deed he is legally seized of an indefeasible estate in fee simple of the premises and has good right and full power to convey the same; that the same is clear of all encumbrances and liens, and that he warrants to the grantee, his heirs and assigns, the quiet and peaceable possession thereof, and will defend the title thereto against all persons who may lawfully claim the same, and the covenants and warranty shall be obligatory and binding upon any such grantor, his heirs and personal representatives as if written at length in such deed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 320. Power of Attorney - Execution - Recording

A power of attorney-in-fact for the conveyance of real estate or any interest therein, or for the execution or release of any mortgage therefor, shall be executed, acknowledged and recorded in

the manner required by this chapter for the execution, acknowledgment and recording of deeds and mortgages, and shall be recorded in the office of the Court Clerk, and no deed, mortgage or release of a mortgage executed by an attorney-in-fact shall be received for record or recorded until the power under which the same is executed has been duly filed for record in the same office; and the recording of any deed, mortgage or release of mortgage shall be of no effect for any purpose until the power under which it is executed has been duly filed for record in the same office. *Provided* that any power of attorney promulgated by any agency of the Government of the United States shall be deemed sufficiently recorded for purposes of this section if the promulgation thereof shall have been published in the Federal Registry of the Government of the United States and any instrument executed pursuant to said power of attorney recites the specific reference to said publication.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 321. Revocation of Power of Attorney

No instrument containing a power of attorney for the conveyance, mortgage, or lease of any estate or interest in real property which has been recorded, is to be deemed revoked as to third parties by any act of the person by whom it was executed, unless the instrument containing such revocation is also recorded in the same office in which the instrument containing the power of attorney was recorded.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 322. Judgment for Recovery of Land - When Effective Against Grantors

In all cases where there is a recovery of land or any interest therein, adverse to any warranty deed thereto, the judgment by which such recovery is had shall not be effective, or become the basis of an action, against previous grantors, other than those who are parties thereto, or have been notified in writing of the pendency thereof twenty (20) days before such judgment is entered.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 323. Notice of Suit to Grantor

In all cases where an action is brought against a grantee to recover real estate conveyed to him by warranty deed he must notify the grantor, or person bound by the warranty, that such suit has been brought, at least twenty (20) days before the day of trial, which notice shall be in writing and shall request such grantor or other person to defend against such action; and in case of failure to give such notice there shall be no further liability upon such warranty, except when it is clearly shown that it was impossible to make service of such notice.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 324. Defense by Warrantor - Recovery by Warrantee

Where any grantor appears in any action to defend his warranty or fails to appear after due notice, the court shall determine all the rights of all the parties, and in case the recovery is adverse to the warranty, the warrantee shall recover of the warrantor the price of the land paid for the conveyance at the time of the warranty, the value of all improvements lost, if any, and all sums necessarily expended, including a reasonable attorney fee, and interest at the rate of ten percent (10%) per annum on all sums so paid from the time of payment.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 325. Failure to Defend - Recovery

If a warrantor or other person bound by a warranty shall fail to appear and defend after due notice as above provided the warrantee may defend the action and recover in a separate suit all sums expended the same as he might do in the same suit, as provided in this act.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 326. Acknowledgment Before Recording

No deed, mortgage or other Instrument affecting the real estate shall be received for record or recorded unless executed and acknowledged in substantial compliance with this chapter; and the recording of any such instrument not so executed and acknowledged shall not be effective for any purpose.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 327. Instruments Recorded for Ten Years Valid

When any instrument of writing shall have been, or may hereafter be on record in the office of the court clerk for the period of ten (10) years, and there is a defect in such instrument because it has not been signed by the proper officer of any corporation, or because the corporate seal of the corporation has not been impressed on such instrument, or because the record does not show such seal, or because such instrument is not acknowledged, or because of any defect in the execution, acknowledgment, recording or certificate of recording the same, such instrument shall, from and after the expiration of ten (10) years from the filing thereof for record, be valid as though such instrument had, in the first instance, been in all respects duly executed, acknowledged, and certified, and such instrument shall, after the expiration of ten (10) years from the filing of the same for record, impart to subsequent purchasers, encumbrancers, and all other persons whomsoever, notice of such instrument of writing so far as and to the same extent that the same may then be recorded, copied or noted in such books of record, notwithstanding such defect. Such instrument or the record thereof or a duly-authenticated copy thereof shall be competent evidence without requiring the original to be produced or accounted for to the same

extent that written instruments, duly executed and acknowledged, or the record thereof, are competent: *Provided*, that nothing herein contained shall be construed to affect any rights acquired by grantees, assignees or encumbrancers subsequent to the filing of such instrument for record and prior to the expiration of ten (10) years from the filing of such instrument for record.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 328. Instruments to Be Written or Printed in the Sac and Fox Language or the English Language

No instrument affecting the title to real estate shall be filed for record or recorded unless plainly printed or written or partly printed and partly written in the Sac and Fox language or the English language.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 329. Fee Simple - Exception

Every estate in land which shall be granted, conveyed or demised by deed or will shall be an estate in fee simple and of inheritance, unless limited by express words.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 330. Will Recorded

Any will, devising real estate or any interest therein, or a copy thereof, together with a copy of the probate thereof, all duly certified by a judge of the District Court, may be filed and recorded in the office of the register of deeds in the court clerks office, with like effect as a deed duly executed and acknowledged.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 331. Judgment Recorded

Any judgment or decree of a court of competent jurisdiction finding and adjudging the rights of any party to real estate or any interest therein, duly certified, may be filed for record and recorded in the office of the register of deeds in the court clerks office, with like effect as a deed duly executed and acknowledged.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

United States possessions, or Canada, it may be taken before any notary public, clerk of a court of record, or commissioner of deeds duly appointed by the Chief Executive Officer of the state, reservation or territory where the same is taken, or other person authorized to administer oaths; and when taken in any other foreign country, it may be taken before any court of record or clerk of such court, or before any Consul of the United States.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 336. Acknowledgments Before Deputy Clerk of District Court Validated

In all cases where any deputy clerk of the district court takes acknowledgments of deeds, or other conveyances of real estate, the same are hereby legalized and made binding.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 337. Form of Warranty Deed

A warranty deed to real estate may be substantially in the following form, to wit:

WARRANTY DEED
SAC AND FOX NATION

Know all men by these presents:

That _____, part ____ of the first part, in consideration of the sum of dollars, in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey pursuant to the laws of the Sac and Fox Nation unto _____ the following described real property and premises situate in the Sac and Fox Indian Reservation, to wit:

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

To have and to hold said described premises unto the said part ____ of the second part, ____ heirs and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature.

Signed and delivered this ____ day of _____, 19 ____.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 338. Form of Quitclaim Deed

A quitclaim deed to real estate may be substantially the same as a warranty deed, with the word “quitclaim” inserted in connection with the words “do hereby grant, bargain, sell and convey,” as

who executed the within and foregoing instrument, and acknowledged to me that he executed the same as Police Chief of the Sac and Fox Nation, and as his free and voluntary act and deed, for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my hand and official seal, at said Reservation, the day and year last above written.

Notary Public (Court Clerk)

My Commission Expires: _____

Said deed may be issued in this form and no further recitals therein are necessary.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 340. Rights and Duties of Parties to Conveyance

Any contract hereafter made in this jurisdiction to conveyance for the purchase and sale of realty shall be interpreted as including an agreement that the parties shall have following rights and duties, unless the contract expressly provides otherwise:

(1) if, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of this purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid; or

(2) if, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he entitled to recover any portion thereof that he has paid.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Sections 341 - 350. Reserved

SUBCHAPTER A
CONVEYANCES BY CORPORATIONS

Section 351. Corporations May Convey by Attorney

Corporations, as well as individuals, may make, acknowledge, and deliver instruments affecting real estate by an attorney-in-fact.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 352. Instrument by Corporation Valid

Every instrument affecting real estate or authorizing the execution of any deed, mortgage or other instrument relating thereto, executed and acknowledged by a corporation or its attorney-in-fact in substantial compliance with this chapter, shall be valid and binding upon the grantor, notwithstanding any omission or irregularity in the proceedings of such corporation or any of its officers or members and without reference to any provision in its constitution or by-laws.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 353. Manner of Execution by Corporation

Every deed, or other instrument affecting real estate made by a corporation must have the name of such corporation subscribed thereto either by an attorney-in-fact or by the president or a vice-president of such corporation, and when made by a public corporation the name of such corporation must be subscribed by the chief officer thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 354. Manner of Attestation

Every deed or other instrument affecting real estate executed by a corporation except when executed by an attorney-in-fact, must be attested by the Secretary, assistant secretary or clerk of such corporation, with the corporate seal attached.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER B
POWER OF APPOINTMENT

Section 361. Creation

A donor may create a power of appointment only by an instrument executed with the same formalities as one which would pass title to the property covered by the power.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 362. Exercise of Power of Appointment

A donee may exercise a power of appointment only by an instrument executed with sufficient formalities to pass title to the property covered by the power. When a power of appointment is exercisable only by will, a donee may not exercise it by deed. When a power of appointment is exercisable by deed, a donee may exercise it by will.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 363. Insufficient Instruments

A power of appointment authorized to be exercised by an instrument which would not be sufficient to transfer title to the property covered by the power shall not be void, but its execution shall conform to the provisions of this Chapter. When the power of appointment directs that formalities in addition to those prescribed in this Chapter be observed in the execution of the power, the direction may be disregarded.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 364. Persons Who May Exercise Power

Any donee, except a minor, who would be capable of conveying the property covered by the power may exercise a power of appointment.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 365. Two or More Persons Vested with a Power

When a power of appointment is vested in two or more persons, all such persons shall unite in its exercise. However, if one or more of such persons die, become legally incapable of exercising the power, or renounce such power, the power may be exercised by the others.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 366. Consent of Donor

When the consent of the donor, or of any other person, is required by the donor for the exercise of a power of appointment, this consent shall be in writing. To entitle the instrument exercising the power to be recorded, the signature of any person consenting shall be acknowledged. If the consent is given in a separate instrument, that instrument shall be attached to the instrument exercising the power. If any person whose consent is required dies or becomes legally incapable of consenting, the donee may exercise the power with the consent of the other person whose consent is required. If there is no such person, the donee may exercise the power unless the donor has manifested a contrary intent in the instrument creating the power.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 367. Appointment of All Property to One or More Objects to the Exclusion of the Others

Unless a contrary intent is manifested in the instrument creating the power, the donee may appoint all of the property to one or more of the objects to the exclusion of the others. A direction to appoint “to”, “among”, or “between” two or more objects shall not be a sufficient manifestation of a contrary intent. However, when the donee is prevented from excluding any object by the instrument creating the power, each object shall receive an equal share, unless the instrument creating the power manifests an intent that some other division may be made.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 368. Appointment of Self

When a donee is authorized to appoint to himself all or part of the property covered by any power of appointment, a creditor of the donee may subject to his claims all property which the donee could then appoint to himself only to the extent that other property available for the payment of his claims is insufficient for such payment. When a donee has exercised such a general power by deed, the law relating to fraudulent conveyances shall apply as if the property transferred to the appointee had been owned by the donee. When a donee has exercised such a power by will in favor of either a taker without value or a creditor, a creditor of the donee or of his estate may subject such property to the payment of his claim only to the extent that other property available for the payment of the claim is insufficient for such payment.

[PUBLIC LAW 3SF-89-89, July 27, 1989.]

Section 369. General Transfer by Deed or Will

When the donee of a power of appointment makes a deed or a will purporting to transfer all of his property, the property covered by the power shall be included in such transfer unless it is shown that the donee did not so intend.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 370. Conveyances and Devises

A deed either creating or exercising a power of appointment over real property is a conveyance. A will appointing real property is a devise.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 371. Suspension of Right of Alienation

The period during which the absolute right of alienation may be suspended by any instrument in execution of a power shall be computed from the time of the creation of the power and not from the date of the instrument. However, in the case of a general power presently exercisable, the period shall be computed from the date of the instrument.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 372. Advancement to Descendants

Every estate or interest given to a descendent of the donee by the exercise of a power is an advancement to such descendent to the same extent that a gift of property owned by the donee would be an advancement.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 373. Assignment for Benefit of Creditors

Under a general assignment for the benefit of creditors, a power of appointment in the assignor by which he is authorized to appoint the property to himself passes to the assignee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 374. Power of Revocation

When the grantor in a conveyance reserves to himself, for his own benefit, an absolute power of revocation, the grantor shall still be the absolute owner of the estate conveyed, so far as the rights of creditors and purchasers are concerned.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 375. Absolute Power of Disposition in Grantee

When an absolute power of disposition is given to a grantee or a beneficiary under a will of real or personal property and no reversion, remainder, or gift in default of the property indisposed of by the grantee or a beneficiary under a will is expressed in the instrument creating the power, the grantee or a beneficiary under a will shall be the absolute owner of the property.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Sections 376 - 380. Reserved

SUBCHAPTER C
GIFTS OF PROPERTY TO THE GOVERNMENT AND ITS SUBDIVISIONS

Section 381. Capacity to Take Property by Gift

(A) The legal capacity of the Sac and Fox Nation, and of each Sauk Indian Community and school district in the jurisdiction of the Sac and Fox Nation, or any other agency or political or business subdivision of the Sac and Fox Nation authorized by law to own real property, to take title or any interest therein, legal, equitable, or both, to any property, real, personal or mixed, by gift, testamentary or otherwise, as well as by purchase, is hereby specifically approved and affirmed.

(B) The Sac and Fox Nation shall be considered as the ultimate title holder to any real property acquired by any agency or subdivision of the Sac and Fox Nation, and shall have authority to place said lands in trust. Upon doing so, the Sac and Fox Nation shall issue such Patent to the subdivision as it may request without fee or delay.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 382. Tax Exemption

No gift, testamentary or otherwise, of any property, real or personal or both, or any interest therein, to the Sac and Fox Nation, or to any Sauk Indian Community or school district within the jurisdiction thereof, or to any Agency of the Sac and Fox Nation authorized by law to own real or personal property or to any combination thereof, if accepted upon behalf of the Nation, Sauk Indian Community, school district, or agency by the officer, proper governing board or commission thereof, nor the transfer of title thereto in accordance with such gift, or the will or other instrument by which such gift is made, nor the privilege of making or receiving such a gift, nor any income or profits derived by the Nation or such Sauk Indian Community, school district or agency from any such property or its use or disposition thereof, shall be subject to any form of tax.

[PUBLIC LAW #SF-89-8,9 July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 383. Authority to Accept Gift to Government - Delivery or Property and Muniments of Title

Except to the extent that such authority is otherwise specifically vested in some other officer, board, commission or agency of the Sac and Fox Nation, any gift, testamentary or otherwise, whether unconditional or conditional, of any property, whether real or personal or both, to the Sac and Fox Nation or to any institution, department or agency thereof; and, in such instances, except as otherwise provided in this subchapter, delivery of such property, possession thereof, and any

muniments of title thereto shall be made to, and receipted for by the Principal Chief on behalf of the Sac and Fox Nation, who shall promptly report the receipt thereof to the Business Committee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 384. Allotment of Property to Institution, Department or Agency of the Sac and Fox Nation

Any property involved in a gift, testamentary or otherwise, to the Sac and Fox Nation or some officer, board, commission or agency thereof for the use or benefit of a specified institution, department or agency, whether one or more, when accepted by the Principal Chief, shall be allotted to such institution, department or agency of the Sac and Fox Nation, in accordance, as nearly as possible, with the terms of the gift, and his allotment thereof shall be promptly reported to the Business Committee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 385. Allotment of Property Gift for Particular Purpose

(A) Any property involved in any gift, testamentary or otherwise, to the Government of the Sac and Fox Nation for a particular purpose or purposes (as distinguished from public purposes generally), when accepted by the Principal Chief shall be, by said Principal Chief, allotted to the institutions, departments or agencies, if any, which, under the applicable statutes of the Sac and Fox Nation, are charged with the performance of the specific purpose or purposes to which such gift is limited or dedicated, and a report of his action shall be promptly made to the Business Committee.

(B) Any real property involved in any gift, testamentary or otherwise to the Sac and Fox Nation for the purposes of obtaining a patent thereto pursuant to Chapter Two of this Title, when accepted as provided by law, shall be patented by the said Principal Chief to those entitled thereto pursuant to Chapter Two of this Title.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 386. Allotment of Property Given Without Designation of Particular Purpose - New Allotment

Except as may be otherwise provided herein, any real property involved in any gift, testamentary or otherwise, to the Sac and Fox Nation for public purposes generally or without designation of any particular purpose to which the same is to be devoted, when accepted by the Principal Chief, as provided for herein, shall be promptly reported to the Business Committee. If such property in the opinion of the Business Committee, may be occupied and used advantageously by a particular institution, department or agency in carrying out its assigned duties or functions, and any tangible personal property involved in any gift, testamentary or otherwise, to the Sac and Fox Nation for

public purposes generally or without designation of any particular purpose to which the same is to be devoted, when accepted by the Principal Chief, which, in the opinion of the Business Committee is especially suited to the special needs of a particular institution, department or agency in carrying out its assigned duties or functions, such property shall be allotted by the Business Committee to such institution, department, or agency. Any such real property which is not occupied and used, or the occupancy and use of which is terminated by the institution, department or agency to which is has been allotted hereunder and which, in the opinion of the Business Committee, may be occupied and used advantageously by some other particular institution, department or agency in carrying out its assigned duties or functions and any such tangible personal property which is not used, or the use of which is terminated, by the institution or agency to which it has been allotted hereunder and which, in the opinion of the Business Committee, is especially suited to the special needs of a particular institution, department or agency, or may be used advantageously by some other particular institution, department or agency in carrying out its assigned duties or functions, shall be allotted, by the Business Committee, to such other institution, department or agency.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 387. Sale of Real Property Not Suitable for Particular Institutions - Personal Property - Lease until Sale

(A) Except as otherwise provided herein, any real property involved in any gift, testamentary or otherwise, to the Sac and Fox Nation for public purposes generally or without designation of any particular purpose to which the same shall be devoted, when accepted by the Principal Chief, which in the opinion of the Business Committee, may not be occupied and used advantageously by any particular institution, department or agency as contemplated by Section 386 hereof, and any tangible personal property involved in any gift, testamentary or otherwise, to the Sac and Fox Nation for public purposes generally or without designation of any particular purpose to which the same shall be devoted, when accepted by the Principal Chief, which, in the opinion of the Business Committee, is not especially suited to the special needs of any particular institution, department or agency, or may not be used advantageously by any particular institution, department or agency in carrying out its assigned duties or functions, may be sold by the Business Committee in the same manner that property of the same or similar character belonging to institutions under the management and control of the Business Committee may be sold. If, in the judgment of the Business Committee, any such real property which is, or becomes, subject to sale hereunder may be not be sold immediately to advantage, it may be leased or otherwise rented, until such time is, in the opinion of said Business Committee, it may be sold to advantage.

(B) Real property to be sold pursuant to this Section shall, if within the reservation boundaries or a land consolidation or reservation acquisition area, be sold and patented pursuant to Chapter Two of this Title.

(C) Real property to be sold pursuant to this Section which lies outside the reservation boundaries and the boundaries of any land consolidation or reservation acquisition area may be

sold and patented pursuant to Chapter Two of this Act or pursuant to the Indian Land Consolidation Act, 25 U.S.C. §§2201 et. seq., as may be provided by the Business Committee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 388. Sale of Stocks, Bonds, Chooses in Action and Intangible Personal Property

Except as may be otherwise provided, any stocks, bonds, chooses in action, or other intangible personal property (except cash or the equivalent thereof) involved in a gift, testamentary or otherwise, to the Sac and Fox Nation for public purposes generally and without designation of any particular purpose to which the same shall be devoted, when accepted by the Principal Chief, shall be, by the Business Committee, converted into cash as soon as may be practicable.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 389. Money Included in Gift - Income and Proceeds of Sales - Deposit to Credit of General Revenue Fund

All money received as a gift, together with all income, interest, rentals, or otherwise, from any other property delivered to the Sac and Fox Nation, and all cash derived from sales, or other conversions into cash, of such other property as provided for herein, shall be deposited in the Treasury Account for appropriation in the same manner the other public moneys are appropriated from said account.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 390. Acceptance by Agencies, Sauk Indian Communities, and School Districts - Delivery - Receipts

The governing board of each of the Agencies of the Sac and Fox Nation authorized to own property, and the governing board of each Sauk Indian Community, and school district of the Sac and Fox Nation, as to each such governmental subdivision, is hereby authorized in its discretion to accept, upon behalf of such agency, Sauk Indian Community, or school district, any gift, testamentary or otherwise, whether unconditional or conditional, of any property, whether real or personal or both, to such agency, Sauk Indian Community, or school district, or any institution, department or agency thereof; and, in such instances, the property, or, in the case of real property or intangible personal property, the muniments of title thereto, shall be delivered to, and any necessary receipts therefor shall be executed by, such board.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 390.1. Gift to Sac and Fox Nation, Agency, Sauk Indian Community - Tenancy in Common

Any gift, testamentary or otherwise, of any property whatsoever to the Sac and Fox Nation and any governmental subdivision thereof (all of which, including the Nation, are hereinafter referred to as “governmental units”), shall be construed as a gift of such property to the named governmental units as tenants in common; and, unless other proportions are distinctly specified in the instrument by which such gift is made, shall be construed as conveying an undivided interest to each of such governmental units in equal shares.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 390.2. Gift to Nation, Sauk Indian Community Deemed to Be Intended for Public Improvements

Any unconditional gift, testamentary or otherwise, of any property whatsoever to the Sac and Fox Nation and an agency thereof and a Sauk Indian Community within the jurisdiction of the Sac and Fox Nation, without designation of any particular purpose or purposes to which such property is to be devoted, shall be construed as being intended for public improvements within the jurisdiction of the Sac and Fox Nation and such Sauk Indian Community, including but not limited to the construction of public improvements, the purchase of lands upon which to construct public improvements (or, in the case of public highways, the purchase of necessary rights-of-way therefor), and repairs and additions to existing public improvements, within such Sauk Indian Community. The use of such property for such public improvement purposes, as hereinafter provided for, is hereby declared to be a coordinate and joint public purpose of such governmental units.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 390.3. Town Governing Body to Administer

All property given to the Sac and Fox Nation or agency and a Sauk Indian Community shall be administered by the governing body of said Sauk Indian Community in trust for the inhabitants thereof and the general public subject to the consent of the agency named and the Business Committee for:

- (A) Any sale thereof or lease in excess of five years;
- (B) Any expenditure of funds of said trust in excess of \$5000,00.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

SUBCHAPTER D
DISCLAIMER OF INTERESTS

Section 391.1. Definitions

As used in this subchapter, unless otherwise clearly required by the context, the term:

(A) “Beneficiary” means and includes any person entitled, but for his disclaimer, to take an interest as grantee; as donee under any assignment or instrument of conveyance or transfer; by succession to a disclaimed interest other than by will, intestate succession, or through the exercise or non-exercise of a testamentary power of appointment; as beneficiary of an inter vivos trust or insurance contract; pursuant to the exercise or non-exercise of a non-testamentary power of appointment; as donee of a power of appointment created by a non-testamentary instrument.

(B) “Interest” means and includes the whole of any property, real or personal, legal, or equitable, or any fractional part, share, or particular portion or specific assets thereof or any estate in any such property or power to appoint, consume, apply, or expend property or any other right, power, privilege, or immunity relating thereto.

(C) “Disclaimer” means a written instrument which declines, refuses, releases, or disclaims an interest which would otherwise be succeeded to by a beneficiary, which instrument defines the nature and extent of the interest disclaimed thereby, and which must be signed, witnessed and acknowledged by the disclaimant in the manner provided for deeds of real estate.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.2. Right to File Disclaimer

A beneficiary may disclaim any interest in whole or in part, or with reference to specific parts, shares, portions, or assets thereof, by filing a disclaimer in the manner hereinafter provided. A guardian, executor, administrator, or other personal representative of the estate of a minor, incompetent, or deceased beneficiary, if he deems it in the best interests of those interested in the estate of such beneficiary and of those who take the beneficiary’s interest by virtue of the disclaimer and not detrimental to the best interests of the beneficiary, with or without an order of the court, may execute and file a disclaimer on behalf of the beneficiary within the time and in the manner in which the beneficiary himself could disclaim if he were living, of legal age, and competent. A beneficiary likewise may execute and file a disclaimer by agent or attorney so empowered.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.3. Time for Filing a Disclaimer

Such disclaimer shall be filed at any time after the creation of the interest, but in all events within nine (9) months after the effective date of the non-testamentary instrument creating the interest, or, if the disclaimant is not then finally ascertained as a beneficiary or his interest has not then become indefeasibly fixed both in quality and in quantity, such disclaimer shall be filed not later than nine (9) months after the event which would cause him so to become finally ascertained and his interest to become indefeasibly fixed both in quality and quantity.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.4. Place of Filing a Disclaimer

Such disclaimer shall be effective upon being filed in the District Court and if real property within the jurisdiction of the Sac and Fox Nation is disclaimed, notice thereof shall be given to the clerk for the purpose of indexing said disclaimer in the land tract records. A copy of the disclaimer shall be delivered or mailed to the trustee of any trust in which the interest disclaimed exists or to such other person as has legal title to, or possession of, the property in which the interest disclaimed exists, and no such trustee or person shall be liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer. If an interest in or relating to real estate outside the jurisdiction of the Sac and Fox Nation is disclaimed, the original of the disclaimer, or a copy of the disclaimer certified as true and complete by the custodian wherein the same has been filed, shall also be filed with the county clerk in the county or counties where the real estate is situated and shall constitute notice to all persons only from and after the time of such filing.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.5. Disposition of Interest Disclaimed

Unless otherwise provided in the non-testamentary instrument creating the interest with reference to the possibility of a disclaimer by the beneficiary, the interest disclaimed shall be distributed or otherwise be disposed of in the same manner as if the disclaimant has died immediately preceding the death or other event which causes him to become finally ascertained as beneficiary and his interest to become indefeasibly fixed both in quality and quantity and, in any case, the disclaimer shall relate for all purposes to that date, whether filed before or after such death or other event. However, one disclaiming an interest in a non-residuary gift under a trust instrument or otherwise shall not be excluded, unless his disclaimer so provides, from sharing in a gift of the residue even though, through lapse, such residue includes the assets disclaimed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.6. Rights of Creditors Not Defeated

Whenever any disclaimer is made without consideration equal to the value of the property disclaimed, and the beneficiary is or by the disclaimer will become, insolvent, any creditor of the beneficiary may avoid the disclaimer by filing suit thereon within one year after the disclaimer is filed in the Court Clerk's office, *provided* that the property disclaimed may not be recovered from innocent purchasers of said property for value, but the value given for said property may be recovered from the person who received the property due to the disclaimer.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.7. Spendthrift Provisions - Binding Effect of Disclaimer - Spouse of Disclaimant

The right to disclaim granted by this subchapter shall exist irrespective of any limitation imposed on the interest of the disclaimant in the nature of an express or implied spendthrift provision or similar restriction. A disclaimer, when filed as provided in this subchapter, or a written waiver of the right to disclaim, shall be binding upon the disclaimant or beneficiary so waiving and all parties thereafter claiming by, through or under him, except that a beneficiary so waiving may thereafter transfer, assign or release his interest if such is not prohibited by an express or implied spendthrift provision. If an interest in real estate is disclaimed and the disclaimer is duly filed in accordance with the provisions of this subchapter, the spouse of the disclaimant, if such spouse has consented to the disclaimer in writing, shall thereupon be automatically debarred from any claim, right or interest in such real estate to which such spouse, except for such disclaimer, would have been entitled.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.8. Other Rights Not Abridged

This subchapter shall not abridge the right of any person, apart from this subchapter, under any existing or future statute or rule of law, to disclaim any interest or to assign, convey, release, renounce or otherwise dispose of any interest.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 391.9. Interests Not Fixed or Finally Ascertained-right to Disclaim

Any interest which exists on the effective date of this subchapter, but which has not then become indefeasibly fixed both in quality and quantity, or the taker of which has not then become finally ascertained, may be thereafter disclaimed in the manner provided herein.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

CHAPTER FOUR

MORTGAGES

Section 401. Absolute Deed as Mortgage

Every instrument purporting to be an absolute or qualified conveyance of real estate or any interest therein, but intended to be defeasible or as security for the payment of money, shall be deemed a mortgage and must be recorded and foreclosed as such.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 402. Deed of Trust Subject to Mortgage Laws

Every deed of trust on real property, intended as security, shall be subject to all statutory provisions and laws relating to mortgages.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 403. Conveyance by Holder of Deed Intended as Security as Assignment

Any conveyance, other than upon foreclosure as a mortgage, by one holding under an instrument purporting to be a conveyance but intended as security, shall be deemed and treated as an assignment and transfer of the mortgage rights of and indebtedness due the maker thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 404. Form of Mortgage

A mortgage upon real estate may be substantially in the following form, to wit:

MORTGAGE
SAC AND FOX NATION

Know all men by these Presents: That, _____ and _____ of _____ Tribe, in the _____ Reservation part _____ of the first part, have mortgaged and hereby mortgage to _____ of _____, City of _____, County of _____ State of _____, part _____ of the second part pursuant to the laws of the Sac and Fox Nation, the following described real estate and premises, situated in the Sac and Fox Reservation, to-wit:

with all the improvements thereon and appurtenances thereunto belonging, and warrant the title to the same. This mortgage is given to secure the principal sum of _____ Dollars, with interest thereon at the rate of _____ per centum per _____ annum, payable from _____ according to the terms of _____ certain promissory note _____ described as follows, to-wit:

Dated this ___ day of _____ 19 ____

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 405. Further Agreements

Every instrument substantially the same as the above shall be deemed a good and valid mortgage, with all contracts and covenants essential to protect the rights of the holder thereof; but any further lawful contract embodied therein shall be binding upon the parties thereto; and when the words, "and waive the appraisal" are written or printed therein, such words are void and of no effect and the property shall be appraised prior to sale. Nothing in this Chapter shall be construed to prevent a mortgagor, in a mortgage transaction not involving a consumer loan or a consumer related loan as defined in the Uniform Consumer Credit Code, from mortgaging and assigning the rents and profits from the mortgaged real property as additional security for the debts secured by the mortgage, where such assignment (i) is made contemporaneously with the execution of the mortgage, either as a provision therein or by separate instrument, and (ii) covers a lease or leases then existing or thereafter executed, including renewals or extension thereof or substitutes therefor, which cover all or any part of the mortgaged real property, and (iii) is an assignment not conditioned upon a future default by the mortgagor, and (iv) provides for the immediate collection by the mortgagee, or its successors, assigns or agents, of the rents and profits so assigned as the same become due. Any mortgagee taking an assignment of rents and profits as described above shall have the obligation to account and pay to the mortgagor regarding any rents and profits actually collected pursuant to such assignment, which are not applied on the indebtedness owing to the mortgagee; however, the mortgagee shall not be deemed to have other fiduciary obligations to the mortgagor resulting from such assignment or be deemed to be in possession of the mortgaged real property, unless the mortgagee also enters into continued physical possession of the mortgaged real property and exercises exclusive operating control of the mortgaged real property.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 406. Mortgage Follows Property Passing by Succession or Will

When real property, subject to a mortgage, passes by succession or will, the successor or devisee must satisfy the mortgage out of his own property, without resorting to the executor or administrator of the mortgagor, unless there is an express direction in the will of the mortgagor that the mortgage shall be otherwise paid.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 407. Formalities Similar to Deeds

Mortgages of real property may be acknowledged or proved, certified, and recorded in like manner and with like effect as grants thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 408. Record Is Notice

The record of a mortgage duly made, operates as notice to all subsequent purchasers and encumbrancers.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 409. Grant Intended as Mortgage Recorded as Mortgage

Every grant of real property, or of any estate therein, which appears by any other writing, to be intended as a mortgage within the meaning of this chapter, must be recorded as a mortgage; and if such grant and other writing explanatory of its true character are not recorded together at the same time and place, the grantee can derive no benefit from such record.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 410. Separate Instrument Recorded

Every instrument explanatory of any deed or other writing purporting to be conveyance but intended to be defeasible or as security for the payment of money, shall be deemed a part thereof, and must be filed and recorded therewith; and unless such instruments are so filed and recorded together, they and each of them shall have no other effect than an unrecorded mortgage, and the recording of the principal instrument shall secure no rights to the holder thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 411. Defeasance must Be Recorded

When a grant of real property purports to be an absolute conveyance, but is intended to be defeasible on the performance of certain conditions, such grant is not defeated or affected as against any person other than the grantee or his heirs or devisees or persons having actual notice, unless an instrument of defeasance, duly executed and acknowledged, shall have been recorded in the office of the court clerk.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 412. Payment after Assignment of Mortgage

In cases where assignments of real estate mortgages are made after the passage of this act, if such assignments are not recorded, the mortgagor, his heirs, personal representatives, or assigns, may pay all matured interest or the principal debt secured thereby, prior to the recording of such assignment to the mortgagee, or if any assignment of such mortgage has been made that duly appears of record, then such payment may be made to the last assignee whose assignment is recorded in accordance with the provisions of this act, and such payment shall be effectual to extinguish the debt secured by such mortgage and all claims against such mortgagor, his heirs, personal representatives, and assigns, for or on account of such interest or such principal indebtedness; and no transfer of any note, bond or other evidence of indebtedness, by endorsement or otherwise, where such indebtedness is secured by mortgage on real estate within the jurisdiction of the Sac and Fox Nation, shall prevent or operate to defeat the defense of payment of such interest or principal by the mortgagor, his heirs, personal representatives, or assigns, where such payment has been made to the mortgagee or to the assignee whose assignment appears last of record under the provisions of this act: *Provided, however*, that in all such cases the assignee who may hold such unrecorded assignment shall have a right of action against his assignor to recover the amount of any such payment of interest or principal made to such assignor as upon an account for money had and received for the use of such assignee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 413. Release by Attorney

Any agent or attorney duly authorized to collect the debt secured thereby shall have power and authority to release a mortgage.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 414. Holder must Release - Penalty

Any mortgage or constructive mortgage on real estate shall be released by the holder of any such mortgage within fifty (50) days of the payment of the debt secured by the mortgage and the holder of the mortgage shall file the release of the mortgage with the clerk of the District Court. If, at the end of the fifty-day period, the holder has failed to release the mortgage, the mortgagor; may at any time request in writing the holder of the mortgage to release the mortgage and the holder of the mortgage shall have ten (10) days from the date of the request to release such mortgage. If the holder of the mortgage fails to release the mortgage by the end of such ten-day period, he shall then forfeit and pay to the mortgagor a penalty of one percent (1%) of the principal debt not to exceed One Hundred Dollars (\$100.00) per day each day the release is not recorded after the ten-day period has expired and the penalty shall be recovered in a civil action in any court having jurisdiction thereof, but the request for the release shall be in writing and describe the mortgage

and premises with reasonable certainty. *Provided* that, the total penalty shall not exceed one hundred percent (100%) of the total principal debt.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 415. How Released

A mortgage on real property may be released by written instrument, duly signed and acknowledged and recorded in the office of the Court Clerk.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 416. Mortgages, to Secure Governmental Agency Bonds

Every mortgage, deed of trust, and instruments supplementary thereto or amendatory thereof, or satisfaction thereof, covering any real or personal property situated in the jurisdiction of the Sac and Fox Nation, made to secure the payment of bonds issued or to be issued thereafter by any Agency in the Sac and Fox Nation authorized to issue bonds shall be executed and acknowledged in the same manner as are conveyances of real estate and shall be recorded or filed in the office of the Court Clerk, who shall endorse thereon his certificate specifying the day and hour of the instrument's receipt and the volume and page where recorded or filed, which shall be evidence of such facts. The recording or filing of such instrument in the office of the Court Clerk shall be notice to all subsequent purchasers and encumbrancers of the rights and interests of the parties thereto as to property described in the recorded or filed instrument and property acquired subsequent to the execution thereof if the instrument so provides and no other filing or recording of any such instrument shall be necessary, notwithstanding the provisions of any other statute.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 417. Certificate of Tax Commission

The Court Clerk shall not receive for record or for filing any mortgage, deed of trust or instruments supplementary thereto or amendatory thereof, unless and until the same has thereon the certificate of the Tax Commission that the same has been presented to it under the provisions of the Real Estate Mortgage Tax Law and that any real estate mortgage tax, if any is due, has been paid or that none is due thereon, as the case may be.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 425. Title Protection

- (A) As used in this section:

- (1) “Buyer” means a person who purchases property through financing, in whole or in part, by a loan secured by the property;
- (2) “Mortgagee” means a person who provides financing, in whole or in part, to a buyer for the purchase of property and the financing is secured by the property;
- (3) “Person” means an individual, partnership, corporation, trust or other legal entity;
- (4) “Property” means real property which is either improved property or unimproved property which is purchased through financing by a loan for construction; and
- (5) “Title protection document” means a lawyer’s title opinion letter, a title certificate, a title insurance policy or other written assurance as to the state of the title to property.

(B) If a title protection document will be issued to the mortgagee, the mortgagee shall give to the buyer at the time of loan application written notice containing the following:

- (1) Whether the title protection document will provide protection to the buyer; and
- (2) That the buyer should seek independent, competent advice as to whether the buyer should obtain any additional title protection document. In the event said additional title protection is desired, it shall be obtained by the buyer in a timely manner in order to avoid undue delay of the closing under the terms of the contract of sale.

(C) The requirements of this section shall not be subject to waiver by the buyer.

(D) Any mortgagee who fails to comply with the provisions of this section shall be subject to a penalty in the amount of one Thousand Dollars (\$1,000.00). The penalty imposed herein shall be recoverable by the buyer, plus all costs of any action, including a reasonable attorney fee, to recover the penalty.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 451. Indefinite Reference to Mortgage

(A) No indefinite reference to a mortgage in any subsequent deed or mortgage shall constitute notice of any rights of the mortgagee under such mortgage, nor put any person on inquiry with respect thereto, after the expiration of one (1) year from the date of the recording of the deed or mortgage containing such indefinite reference.

(B) For the purpose of this section, a mortgage shall be considered as indefinitely referred to if unrecorded or if the book number and the page number of the records of the court clerk are not given in the deed or mortgage containing such reference.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 461. Limitations on Power of Foreclosure

(A) No suit, action or proceeding to foreclose or otherwise enforce the remedies in any mortgage, contract for deed or deed of trust shall be had or maintained after the expiration of ten (10) years from the date the last maturing obligation secured by such mortgage, contract for deed or deed of trust becomes due as set out therein, and such mortgage, contract for deed or deed of trust shall cease to be a lien, unless the holder of such mortgage, contract for deed or deed of trust within the above described ten-year period, files or causes to be filed of record a written notice of extension as provided in paragraph 1 of subsection C of this section.

(B) No suit, action or proceeding to foreclose or otherwise enforce the remedies in any mortgage, contract for deed or deed of trust filed of record in the office of the court clerk, in which the due date of the last maturing obligation secured by such mortgage, contract for deed or deed of trust cannot be ascertained from the written terms thereof, shall be had or maintained after the expiration of thirty (30) years from the date of recording of the mortgage, contract for deed or deed of trust, and said mortgage, contract for deed or deed of trust shall cease to be a lien, unless the holder of such mortgage, contract for deed or deed of trust within the above described thirty-year period, files or causes to be filed of record a written notice of maturity date as provided in paragraph 2 of subsection C of this section.

(C) Notice Extension Requirements.

(1) The notice of extension required under subsection (A) of this section, to be effective for the purpose of this chapter shall show the date of recording, the book and page and the legal description of the property covered by the mortgage, contract for deed or deed of trust and the time for which the payment of the obligation secured thereby is extended, and shall be duly verified by oath and acknowledged by the holder of the mortgage, contract for deed or deed of trust.

(2) The notice of maturity date required under subsection (B) of this section, to be effective for the purpose of this- chapter, shall show the date of recording, the book and page and the legal description of the property covered by the mortgage, contract for deed or deed of trust and the maturity date to which the last maturing obligation secured thereby is extended, and shall be duly verified by oath and acknowledged by the holder of the mortgage, contract for deed or deed of trust.

(D) Any mortgage, contract for deed or deed of trust barred under this chapter shall not be a defect in determining marketable record title.

(E) The notice required to be filed of record by this section must be recorded in the office of the Clerk of the District Court.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

CHAPTER FIVE LIENS

SUBCHAPTER A GENERAL PROVISIONS

Section 501. Lien Defined

A lien is a charge imposed upon specific property, by which it is made security for the performance of an act.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 502. Classes of Liens

Liens are either general or special.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 503. General Lien

A general lien is one which the holder thereof is entitled to enforce as a security for the performance of all the obligations, or all of a particular class of obligations, which exist in his favor against the owner of the property.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 504. Special Lien — Prior Lien

A special lien is one which the holder thereof can enforce only as a security for the performance of a particular act or obligation, and of such obligations as may be incidental thereto. Where the holder of a special lien is compelled to satisfy a prior lien for his own protection, he may enforce payment of the amount so paid by him, as a part of the claim for which his own lien exists.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 505. Law Applies to What

- (A) Contracts of mortgage and pledge, are subject to all the provisions of this chapter.

(B) No lien applies to the property of the Sac and Fox Nation or its agencies absent the written consent of the governing board of the agency owning said property or the Business Committee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 506. Lien Created, How

A lien is created By contract of the parties, or by operation of law.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 507. Lien Created by Law

No lien arises by mere operation of law until the time at which the act to be secured thereby ought to be performed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 508. Lien on Future Interest

An agreement may be made to create a lien upon property not yet acquired by the party agreeing to give the lien, or not yet in existence. In such case the lien agreed for attaches from the time when the party agreeing to give it acquires an interest in the thing to the extent of such interest.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 509. Lien to Take Immediate Effect

A lien may be created by contract, to take immediate effect, as security for the performance of obligations not then in existence.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 510. Lien Transfers No Title

Notwithstanding an agreement to the contrary, a lien or a contract for a lien transfers no title to the property subject to the lien.

[PUBLIC LAW #5F-89-89, July 27, 1989.]

Section 511. Contracts for Forfeiture of Property and Restraining Redemption

A contracts requiring the forfeiture of property subject to a lien, in satisfaction of the obligation secured thereby, and all contracts in restraint of the right of redemption from a lien, are void, except as explicitly provided by law.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 512. Lien Does Not Imply Obligation

The creation of a lien does not of itself imply that any person is bound to perform the act for which the lien is a security.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 513. Extent of Lien Limited

The existence of a lien upon property does not of itself entitle the person, in whose favor it exists, to a lien upon the same property for the performance of any other obligation than that which the lien originally secured.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 514. Holder of Lien Not Entitled to Compensation

One who holds property by virtue of a lien thereon, is not entitled to compensation from the owner thereof for any trouble or expense which he incurs respecting it, except as provided by law or by contract.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 515. Priority of Liens According to Date

Other things being equal, different liens upon the same property have priority according to the time of their creation, except in cases of bottomry and respondentia.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 516. Priority of Mortgage for Price of Realty

A mortgage given for the price of real property, at the time of its conveyance, has priority over all other liens created against the purchaser, subject to the operation of the recording laws.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 517. Order of Resort for Payment of Prior Liens

Where one has a lien upon several things, and other persons have subordinate liens upon, or interests in, some, but not all of the same things, the person having the prior lien, if he can do so without the risk of loss to himself, or injustice to other persons, must resort to the property in the following order, on the demand of any party interested:

- (A) To the things upon which he has an exclusive lien.
- (B) To the things which are subject to the fewest subordinate liens.
- (C) In like manner inversely to the number of subordinate liens upon the same thing;
and,
- (D) When several things are within one of the foregoing classes, and subject to the same number of liens, resort must be had,
 - (1) To the things which have not been transferred since the prior lien was created.
 - (2) To the things which have been so transferred without a valuable consideration; and,
 - (3) To the things which have been so transferred for a valuable consideration.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 518. Persons Entitled to Redeem Lien

Every person having an interest in property subject to a lien, has right to redeem it from the lien, at any time after the claim is due, and before his right of redemption is foreclosed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 519. Holder of Inferior Lien - Redemption

One who has a lien, inferior to another upon the same property, has a right:

- (A) To redeem the property in the same manner as its owner might, from the superior lien; and,

(B) To be subrogated to all the benefits of the superior lien when necessary for the protection of his interests, upon satisfying the claim secured thereby.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 520. Redemption — How Made

Redemption from a lien is made by performing, or offering to perform, the act for the performance of which it is a security, and paying, or offering to pay, the damages, if any, to which the holder of the lien is entitled for delay.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 521. Lien Is an Accessory Obligation

A lien is to be deemed accessory to the act for the performance of which it is a security, whether any person is bound for such performance or not, and is extinguishable in like manner with any other accessory obligation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 522. Sale or Conversion of Property Extinguishes Lien

The sale of any property on which there is a lien, in satisfaction of the claim secured thereby, or, in case of personal property, its wrongful conversion by the person holding the lien, extinguishes the lien thereon.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 523. Limitation of Time

A lien is extinguished by the mere lapse of the time within which, under the provisions of civil procedure, an action can be brought upon the principal obligation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 524. Partial Performance as Extinguishing Lien

The partial performance of an act secured by a lien does not extinguish the lien upon any part of the property subject thereto, even if it is divisible, unless otherwise provided by written contract.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 525. Voluntary Restoration as Extinguishing Lien

The voluntary restoration of property to its owner, by the holder of a lien thereon, dependent upon possession, extinguishes the lien as to such property, unless otherwise agreed by the parties, and extinguishes it, notwithstanding any such agreement, as to creditors of the owner and persons subsequently acquiring title to the property, or a lien thereon, in good faith and for a good consideration.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 526. Vendor's Lien for Price of Realty

One who sells real property has a special or vendor's lien thereon, independent of possession, for so much of the price as remains unpaid and unsecured, otherwise than by the personal obligation of the buyer, subject to the rights of purchasers and encumbrancers, in good faith, without notice.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 527. Waiver of Vendor's Lien

Where the buyer of real property gives to the seller a written contract for payment of all or part of the price, an absolute transfer of such contract by the seller, waives his lien to the extent of the sum payable under the contract, but a transfer of such contract in trust to pay debts, and return the surplus, is not a waiver of the lien.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 528. Validity of Liens of Vendors and Purchasers

The liens defined in Sections 526 and 529 are valid against everyone claiming under the debtor, except a purchaser or encumbrancer in good faith, without notice, and for value.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 529. Lien of Purchaser of Real Property

One who pays to the owner any part of the price of real property, under an agreement for the sale thereof, has a special lien upon the property, independent of possession, for such part of the amount paid as he may be entitled to recover back in case of a failure of consideration.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 530. Lien of Factor

A factor has a general lien, dependent on possession, for all that is due to him as such, upon all articles of commercial value that are entrusted to him by the same principal.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 531. Banker's Lien

A banker has a general lien, dependent on possession, upon all property in his hands belonging to a customer, for the balance due to him from such customer in the course of the business.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 532. Special Lien of Officer Levying Attachment or Execution

An officer, who levies an attachment or execution upon personal property, acquires a special lien, dependent on possession, upon such property, which authorizes him to hold it until the process is discharged or satisfied, or a judicial sale of the property is had.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 533. Attorney's Lien

Attorneys-at-law have a general lien, dependent upon possession, upon all property in his hands belonging to a client, for the balance due to him from such client in the course of the business.

[PUBLIC LAW #SF-89-89, July 27, 1989, as amended by PL #SF-07-88, February 5, 2007.]

Section 534. Judgment Liens

The lien of judgment is regulated by civil procedure.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 535. Innkeeper's and Housing Authority Liens

(A) The keeper of any inn, hotel, boardinghouse, or rooming house, whether individual, partnership or corporation, shall have a lien on the baggage and other property in and about such inn, brought to the same by or under the control of his guest or boarders for the proper charges due him from such guests or boarders for accommodation, board and lodging, and for all money paid for or advanced to them, not to exceed the sum of Five Hundred Dollars (\$500.00)

and for such other extras as are furnished at the request of such guests, and said innkeeper, hotelkeeper or rooming house keeper shall have the right to detain such baggage and other property until the amount of such charges are paid and such baggage and other property shall be exempt from attachment or execution until such innkeeper's lien and the cost of satisfying it are paid. The innkeeper, boardinghouse or hotelkeeper or rooming house keeper shall retain such baggage and other property upon which he has a lien for a period of ninety (90) days, at the expiration of which time, if the lien is not satisfied, he may sell such baggage and other property at public auction, first giving notice of the time and place of sale by posting at least three notices thereof in public places in the reservation, one of which shall be the Sac and Fox Courthouse, and also by mailing a copy of such notice addressed to said guest or boarder at the place of residence designated by the register of such inn or hotel. After satisfying the lien and any costs that may accrue, any residue remaining shall, on demand, within six (6) months, be paid to such guest or boarder, and if not so demanded within six (6) months from date of sale, such residue shall be deposited by such innkeeper with the Sac and Fox Treasurer. Such residue shall be retained by the treasurer for a period of one (1) year, and if not claimed within that time by the owner thereof, it shall be placed to the credit of the Sac and Fox Treasury Account.

(B) The Sac and Fox Housing Authority shall have a lien upon the household furnishings and appliances of participants for amounts due to the Authority for rental or Mutual Help payments, damages, late fees, court costs and attorneys fees due to the Authority and may maintain possession of such property after eviction of any such participant. If the judgment is not paid within sixty (60) days after the final judgment is issued the Authority may sell such property at public auction, first giving notice of the time and place thereof by posting a notice in three public places within the reservation, at least one of which shall be the Sac and Fox Courthouse and by mailing a notice thereof to the participant at his residence, if known to the Authority. Any residue remaining after satisfaction of the lien of the Authority shall be treated in the same manner as the residue of an Innkeeper lien as provided in subsection A.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 536. Liens Against Insolvent Estates

(A) When any corporation, formed under the provisions of the laws of the Sac and Fox Nation, or any corporation doing business within the jurisdiction of the Sac and Fox Tribe shall become insolvent, the employees performing labor or services of whatever character in the regular employ of such corporation, and the producers of agricultural and dairy products, including cooperative marketing associations of such producers, shall have a lien upon the assets of such corporation for the amount of salary or wages or payments for agricultural and dairy products due them, not exceeding four (4) months' salary or wages or payments for such products which shall have accrued prior to the adjudication of the insolvency of such corporation, which lien shall be paid prior to any other debts, charges or claims against said corporations, except taxes due the United States Government or the Sac and Fox Nation. The word "employees" shall not be construed to include any of the officers of such corporation.

(B) The lien, herein provided, shall be enforced in the manner now provided by law for the enforcement of other liens for labor.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 537. Lien on Unharvested Crops

Any lien executed upon crops which are to be harvested later than eighteen (18) months after the execution of such lien is hereby declared to be unlawful and contrary to public policy and void and unenforceable in any court of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 538. Hospital Liens in Personal Injury Cases

(A) Every hospital in the jurisdiction of the Sac and Fox Nation, which shall furnish emergency medical or other service to any patient injured by reason of an accident not covered by a Workers' Compensation Act, shall, if such injured party shall assert or maintain a claim against another for damages on account of such injuries, have a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient, or by his heirs, personal representatives or next of kin in the case of his death, whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages: *Provided, however*, that this lien shall be inferior to any lien or claim of any attorney or attorneys for handling the claim on behalf of such patient, his heirs or personal representatives; *provided further*, that the lien herein set forth shall not be applied or considered valid against any claim for amounts due under the Workers' Compensation Act.

(B) No such lien shall be effective unless a written notice containing an itemized statement of the amount claimed, the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed in the office of the court clerk of the District Court on the mechanic's and materialmen's docket, prior to the payment of any monies to such injured person, his attorneys or legal representatives, as compensation for such injuries; nor unless the hospital shall also send, by registered or certified mail postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries sustained prior to the payment of any monies to such injured person, his attorneys or legal representatives, as compensation for such injuries.

(C) The lienor or any other person may in good faith become a purchaser of the property sold.

(D) Proceedings for foreclosure under this Section shall not be commenced until thirty (30) days after said lien has accrued.

(E) Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which he has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon said personal property if, within thirty (30) days from the date of dishonor of said check or other written order for payment of money, he files in the office of the Court Clerk a sworn statement that the check or other written order for immediate payment of money, copy thereof being attached, was received for labor, material or supplies for producing or repairing an article of personal property, that it was not paid, and that the uttering thereof constituted the means for inducing him, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the said article of personal property. The enforcement of said lien shall be within sixty (60) days after filing said lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 542. Labor and Material Lien on Personal Property

(A) Any person, firm or corporation who furnishes labor, money, material or supplies for the production of, altering or repairs of any personal property at the request of the owner of said property, shall have a lien for the value of his money, labor, material or supplies upon said personal property, said lien to date from commencement of furnishing of labor, money, material or supplies.

(B) Any person entitled to a lien under this Section shall within sixty (60) days after last furnishing of labor, money, material or supplies for the production of, altering or repairing of said personal property, file in the office of the Court Clerk of the District Court a statement in writing verified by oath, showing the amount of labor, money, material or supplies furnished for the producing of altering or repairing of said personal property, the name of the person for, and by whom labor, money, material or supplies, was furnished. Unless the person entitled to such lien shall file such statement within the time aforesaid, he shall be deemed to have waived his rights thereto; *Provided*, that the lien provided for in this Section shall not attach to any personal property after it has been purchased by an innocent purchaser for value, and has passed into his possession unless the lien shall have been filed with the Court Clerk before the property was purchased by such purchaser, or he shall have received written notice, from the party entitled to the lien, of his intention to file the same.

(C) The lien herein provided for shall be subject to prior mortgage liens, unless the holder thereof has received notice of the intention of the furnishing of said labor, money, material or supplies and consents thereto in writing after which such mortgage lien shall become

subordinate to the lien upon said property for the expense of producing, altering or repairing of same.

(D) Said lien may be foreclosed by the sale of the property so covered any time within twelve (12) months in the same manner provided by law for the foreclosure of chattel mortgages.

(E) It shall be the duty of the holder of the lien under this Section when the same is satisfied to immediately file a notice of discharge thereof with the Court Clerk of the District Court. Failure to do so shall subject the holder of the lien to a civil penalty of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) to be paid into the Court fund.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER B THRESHERS, COMBINERS AND HAY HAULERS

Section 546. Persons Entitled to Liens - Commencement of Lien

Any person, firm or corporation, who shall thresh or combine grain or seed or bale or haul hay for another shall have a lien for the value of his services upon the grain or seed threshed or combined or hay baled or hauled as provided for in Section 547 of this act, said lien to date from the commencement of threshing, baling or hauling.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 547. Filing Lien Statement

Any person entitled to a lien under this part shall, within thirty (30) days after the threshing, combining, baling or hauling is completed, file in the office of the Court Clerk a statement in writing, verified by oath, showing the amount, quantity and kind of grain or seed threshed or combined or hay baled or hauled the price agreed upon, the name of the person for whom the labor was done, and a description of the land on which the crop was grown or labor done. Unless the person entitled to the lien shall file such statement within the time aforesaid, he shall be deemed to have waived his rights thereto; *provided*, that the lien provided for in this part shall not attach to any seed or grain after it has been purchased by a grain dealer and has passed into his possession unless the lien shall have been filed with the Clerk of the District Court before the seed or grain was purchased by such dealer, or he shall have received written notice from the party entitled to the lien, of his intention to file the same.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 548. Priority of Mortgage Liens

The lien herein provided for shall be subject to prior mortgage liens, unless the holder thereof has received notice of the intention of the threshing or combining of the grain or seed or baling or hauling of the hay and consented thereto in writing, after which the holder of such mortgage lien shall become jointly liable with the owner of the grain or seed for the expenses of threshing or combining of the same.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 549. Statement Furnished Owner by Thresher

Any person operating a threshing or combining machine, shall furnish the owner of the crop a statement showing the number of bushels of each kind of grain or seed and/or the number of acres threshed or combined or number of bales made or hauled or the number of acres baled or hauled, price per bushel or bale and/or the price per acre and credits due; *provided*, that any person operating a threshing or combining machine who fails or refuses to comply with the provisions of this section, shall forfeit his right to the lien herein provided for.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 550. Foreclosure of Lien

Said lien may be foreclosed by the sale of the property so covered any time within six (6) months, in the same manner as provided by law for the foreclosure of chattel mortgages.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 551. Sale for Purpose of Paying Threshing or Combining Bill

The owner, when said seed, or grain, or hay is not mortgaged, and the owner with the written consent of the mortgagee, when said crop is mortgaged, may sell or dispose of not to exceed twenty-percent (20%) of said crop for the purpose of paying the threshing, combining or hauling bill.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 552. Satisfaction of Lien upon Discharge

It shall be the duty of the holder of the lien under this Part when same is satisfied to immediately file a notice of discharge thereof with the Court Clerk. Failure to do so shall subject the holder of the lien to a civil penalty of not less than Twenty--five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00) to be deposited in the court funds.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER C
MECHANICS AND MATERIALMEN

Section 561. Right to Lien

Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alternation or repair of any building, improvement, railway, or structure thereon or perform labor in putting up any fixtures, machinery in, or attachment to, any such building, structure or improvements; or who shall plant any tree, vine, plant or hedge in or upon such land; or who shall build, alter, repair or furnish labor, material or lease or rent equipment used on said land for building, altering, or repairing any fence or sidewalk in or upon said land, or any sidewalk in any street abutting such land, shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances. If the title to the land is not in the person with whom such contract was made, the lien shall be allowed on the buildings and improvements on such land separately from the real estate. Such liens shall be preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building, the furnishing or putting up of such fixtures or machinery, the planting of such tree, vine, plant, or hedge, the building of such fence, sidewalk or sidewalk, or the making of any such repairs or improvements; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found, and compliance with the provisions of this Subchapter shall constitute constructive notice of the claimant's lien to all purchasers and encumbrancers of said property or any part thereof, subsequent to the date of the furnishing of the first labor or the first use of the rental equipment on said land.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 562. Lien Statement to Be Filed

Any person claiming a lien as aforesaid shall file in the office of the Court Clerk of the District Court a statement setting forth the amount claimed and the items thereof as nearly as practicable, the names of the owner, the contractor, the claimant, and a legal description of the property subject to the lien, verified by affidavit. Such statement shall be filed within four (4) months after the date upon which material or equipment used on said land was last furnished or labor last performed under contract as aforesaid; and if the claim be for the planting of any tree, vine, plant, or hedge, such statement shall be filed within four (4) months from such planting. Immediately upon the receipt of such statement the Court Clerk of the District Court shall enter a record of the same against the tract index and in a book kept for that purpose, to be called the mechanics' lien journal, which shall be ruled off into separate columns, with headings as follows: "When filed", "Name of owner", "Name of claimant", "Amount claimed", "Legal description of property"; and "Remarks", and the clerk shall make the proper entry in each column.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 563. Notice to Owner - Condition to Enforcement

No lien arising under the provisions of this Subchapter which affects property presently occupied as a dwelling by an owner thereof shall be enforceable unless, prior to the first performance of labor or first furnishing of materials by said claimant, the original contractor shall have provided to one of the owners a written notice which must include the following language in large or bold type or printing calculated to attract the owners' attention thereto:

NOTICE TO OWNER

YOU ARE HEREBY NOTIFIED THAT THE UNDERSIGNED PERSONS PERFORMING LABOR ON YOUR PROPERTY OR FURNISHING MATERIALS FOR THE CONSTRUCTION, REPAIR OR IMPROVEMENT OF YOUR PROPERTY WILL BE ENTITLED TO A LIEN AGAINST YOUR PROPERTY IF THEY ARE NOT PAID IN FULL, EVEN THOUGH YOU MAY HAVE PAID THE FULL CONTRACT PRICE TO YOUR CONTRACTOR. THIS COULD RESULT IN YOUR PAYING FOR LABOR AND MATERIALS TWICE. THIS LIEN CAN BE ENFORCED BY THE SALE OF YOUR PROPERTY. TO AVOID THIS RESULT, YOU MAY DEMAND FROM YOUR CONTRACTOR LIEN WAIVERS FROM ALL PERSONS PERFORMING LABOR OR FURNISHING MATERIALS FOR THE WORK ON YOUR PROPERTY. YOU MAY WITHHOLD PAYMENT TO THE CONTRACTOR IN THE AMOUNT OF ANY UNPAID CLAIMS FOR LABOR OR MATERIALS. YOU ALSO HAVE THE RIGHT TO DEMAND FROM YOUR CONTRACTOR A COMPLETE LIST OF ALL LABORERS AND MATERIAL SUPPLIERS UNDER YOUR CONTRACT, AND THE RIGHT TO DETERMINE FROM THEM IF THEY HAVE BEEN PAID FOR LABOR PERFORMED AND MATERIALS FURNISHED.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 564. Date and Signature of Owner Required on Notice

In order to be effective, the notice, or a copy thereof, as set forth in Section 563, must be dated and be signed by one of the owners. A subcontractor, laborer or materialmen furnishing labor or materials to an original contractor or subcontractor that has been furnished a copy of the above-described notice by said original contractor or subcontractor bearing a date and signature represented by said original contractor or subcontractor to be that of an owner, shall be permitted to rely on said representation and liens filed by said subcontractor, laborer or materialmen shall be enforceable notwithstanding any provisions herein to the contrary.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 565. Person Deemed Not to Be Original Contractor

Any person who performs labor or furnishes material directly to the owner or owners for use upon property used by them as a dwelling, under circumstances where the owner or owners is, or are, liable directly to the laborers or suppliers, shall not be deemed an original contractor for purposes of this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 566. Fraudulent Statement

Any original contractor who falsifies any statement regarding liens on labor or material to any owner of a dwelling shall be banished from the jurisdiction of the Sac and Fox Nation for a term not to exceed fifty years, and, if a corporation, the officers and stockholders thereof may likewise be banished if they were aware of, or responsible for, such false statement, and the owner of the property may recover personally from any such person his damages, costs, and attorney fees and no property of such persons shall be exempt from execution upon as judgment rendered under this section.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 567. Satisfaction of Notice

The written notice required in Section 563 shall be satisfied by furnishing one notice during the course of construction or during the course of the business transaction in which the labor or materials are furnished.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 568. Lien by or Through Subcontractor

Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor or a subcontractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor or the subcontractor, for the amount due him for such material, equipment and labor; for the amount due him for such material and equipment used on said land and labor, by filing with the Court Clerk of the District Court, within ninety (90) days after the date upon which material or equipment used on said land was last furnished or labor last performed under such subcontract, a statement, verified by affidavit, setting forth the amount due from the contractor to the claimant, and the items thereof, as nearly as practicable, the name of the owner, the name of the contractor, the name of the claimant, and a legal description of the property upon which a lien is claimed. Immediately upon the filing of such statement the Court Clerk shall enter a record of the same against the tract index and in the journal provided for section 562, and in the manner therein

specified. *Provided further*, that the owner of any land affected by such lien shall not thereby become liable to any claimant for any greater amount than he contracted to pay the original contractor. The risk of all payments made to the original contractor shall be upon such owner until the expiration of the ninety (90) days herein specified, and no owner shall be liable to an action by such contractor until the expiration of said ninety (90) days, notwithstanding any contract to the contrary, and such one may pay such subcontractor the amount due him from any such contractor for such labor, equipment used on said land and material, and the amount so paid shall be held and deemed a payment of said amount to the original contractor.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 569. Notice of Filing Lien Statement

Within one (1) business day after the date of the filing of the lien statement, provided for in this Subchapter, a notice of such lien shall be mailed by restricted delivery certified mail to the owner of the property on which the lien attaches by the claimant. The claimant shall also furnish to the Court Clerk the last-known mailing address of the person or persons against whom the claim is made and the owner of the property. The notice shall also be mailed by the Court Clerk by certified mail and the cost of the notice, which shall not exceed Five Dollars (\$5.00), and the cost of mailing shall be paid by the person filing such lien. The notice shall contain the date of filing; the name and address of the following: the person claiming the lien; the person against whom the claim is made and the owner of the property; a legal description of the property; and the amount claimed. *Provided* that, if with due diligence the person against whom the claim is made or the owner of the property cannot be found, the claimant after filing an affidavit setting forth such facts may, within thirty (30) days of the filing of the lien statement, serve a copy of such notice upon the occupant of the property or the occupant of the improvements, as the case may be, in a like manner as is provided for service upon the owner thereof, or, if the same be unoccupied, he may post such copy in a conspicuous place upon the property or any improvements thereon.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 570. Leased or Rented Equipment

In order for a person to perfect a lien for leased or rented equipment under the provisions of this Subchapter, the owner of the leased or rented equipment must have given notice in writing to the owner of the real property of the fact that the equipment is in fact leased or rented. Such notice will be delivered to the owner or the owner's designated representative the day the leased or rented equipment is first used on the subject property, and such notice shall include that a lien may be filed on said property. Such notice must be given at least sixty (60) days before filing such lien. A copy of the notice and certificate of service must be filed with the lien and subject to proof as every other element of the lien.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 571. Homestead Exemption Applies

The provisions of this Subchapter as relating to leased or rented equipment shall not apply to property qualified for homestead exemption or property used for agricultural purposes.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 572. Leased or Rented Equipment on Oil or Gas Property

The provisions of this Subchapter relating to leased or rented equipment shall not apply to such equipment used for the development or production of oil or gas, except insofar as is specifically allowed by Section 573.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 573. Oil and Gas Well Liens

(A) Any person, corporation, or copartnership who shall, under contract, expressed or implied, with the owner of any leasehold for oil and gas purposes, or the owner of any gas pipeline or oil pipeline, or with the trustee or agent of such owner, perform labor or services, including written contracts for the services of a geologist or petroleum engineer, or furnish material, machinery, and oil well supplies used in the digging, drilling, torpedoing, completing, operating, or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing, or repairing of any gas well, or perform any labor upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, shall have a lien upon the whole of such leasehold or oil pipeline, or gas pipeline, or lease for oil and gas purposes, the buildings and appurtenances, the proceeds from the sale of oil or gas produced therefrom inuring to the working interest, exempting, however, any valid, bona fide reservations of oil or gas payments or overriding royalty interests executed in good faith and payable out of such working interest, and upon the material and supplies so furnished, and upon any oil well supplies, tools, and other articles used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well, and upon the oil or gas well for which they were furnished, and upon all the other oil or gas well fixtures and appliances used in the operating for oil and a gas purposes upon the leasehold for which said material and supplies were furnished or labor or services performed. Such lien shall be preferred to all other liens or encumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipeline, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and a gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies except liens for taxes; and such lien shall follow said property and each and every part thereof, and be enforceable against the said property wherever the same may be found; and compliance with the provisions of this subchapter shall constitute constructive notice of the lien claimant's lien to all purchasers and encumbrancers of said property or any part

thereof, subsequent to the date of the furnishing of the first item of material or the date of the performance of the first labor or services.

(B) Nothing herein contained shall be construed to affect any Indian trust royalty interest or the interest of the mineral royalty owner.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 574. Effectiveness of Lien Against Purchaser

No lien claimed by virtue of this subchapter, insofar as it may extend to the proceeds from the sale of oil or gas produced from such lease, shall be effective against any purchaser of such oil or gas until a copy of the statement of lien claim required to be filed by the provisions of this subchapter has been delivered to such purchaser by registered or certified mail.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 575. Subcontractor's Oil and Gas Well Lien

Any person, copartnership or corporation who shall furnish such machinery or supplies to a subcontractor under a contractor, or any person who shall perform such labor under a subcontract with a contractor, or who, as an artisan or day laborer in the employ of such contractor, shall perform any such labor, may obtain a lien upon said leasehold for oil and gas purposes or any gas pipeline or any oil pipeline from the same tank and in the same manner and to the same extent as the original contractor for the amount due him for such labor, as provided in section 573.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 576. Enforcement of Lien on Oil and Gas Wells

The liens herein created on gas and oil property shall be enforced in the same manner, and notice of the same shall be given in the same manner, and the materialmen's statement or the lien of any laborer herein mentioned shall be filed in the same manner as is provided for in the subchapter for enforcing other liens.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 577. Discharge of Lien

Any person against whom a claim is filed under the provisions of the law relating to mechanics' and materialmen's liens may at any time upon three (3) days' notice in writing to the claimant discharge such lien by depositing with the Court Clerk the amount of such claim in cash and executing and filing with such Court clerk a good and sufficient bond to the claim and with

adequate, solvent sureties conditioned that such person will pay any reasonable attorney's fee and all court costs, and interest, that may be adjudged against him finally in the event such claimant recovers judgment on such claim in the amount for which such claim is filed. *Provided*, the deposit of such cash and the execution and filing of such bond shall not operate to discharge such lien until the expiration of five (5) days after the deposit of such cash and the filing of such bond, during which time the lien claimant may apply to such Court Clerk to have the surety on such bond increased, and if upon such investigation the bond proves to be insufficient the Court Clerk shall immediately require such additional surety thereon as may be necessary to make such bond solvent, and the lien shall not be discharged until any additional surety ordered shall have been given and approved. In any suit on such claim the sureties on such bond may be made parties defendant and judgment may be rendered in such action on the bond for whatever amount the court may decree for a reasonable attorney's fee, costs of suit and interest, but in the event the lien claimant does not recover judgment finally for the full amount of the cash deposited no liability shall exist upon said bond and no judgment shall be rendered thereon for any amount, and the balance of such cash deposit over and above the amount of the claim filed shall be returned by such Court clerk to the person depositing same. Appeals may be taken by any party to the action in the same manner and to the same extent as in other civil actions. The Court clerk may at his sole discretion invest such funds on deposit in the same, authorized manner as provided for the court fund with any interest earned on such accounts to be awarded upon judgment to the prevailing party of the suit or as the district court may otherwise direct. *Provided* that, when no final judgment is rendered on then, suit by the court, then any such funds deposited with the court clerk along with all interest accrued on such funds shall be returned to the person making the deposit.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 578. Lien on Mining Property

(A) All miners and other employees engaged in the work of developing and opening up coal mines, sinking of shafts, or construction of slopes or drifts, the driving of entries, mining in coal, and every mechanic, builder, artisan, workman, laborer or other person who performs any work or labor in and about such mines, shall have as security for such work and labor performed, a lien therefor upon the buildings, machinery, equipment, inside or outside, income, franchises, leases or subleases and all other appurtenances and all property of the person, owner, agent, firm or corporation owning, constructing or operating such mine or mines, and all property in their possession or under their control, or permitted by the owner to be used in the construction or operation thereof, superior or paramount, whether prior in time or not, to that of all persons interested in such mines as managers, lessees, subleases, operators, mortgagees, trustees and beneficiaries under trust, or owners.

(B) Any person claiming a lien as aforesaid shall file in the office of the Court clerk a statement setting forth the amount claimed and the items thereof, as nearly as practicable, the names of the managers, lessees, subleases, operators, mortgagees, trustees and beneficiaries under trusts, or owners, the contractor, the claimant and the legal description of the property, subject to such lien and verified by affidavit. Such statement shall be filed within forty-five (45) days after

the date upon which such labor was last performed. Upon receipt of such lien statement, the clerk shall enter same against the tract index and in the mechanics' lien journal.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 580. Proceeds of Contract Are Trust Funds

(A) The amount payable under any building or remodeling contract shall, upon receipt by any contractor or subcontractor, be held as trust funds for the payment of all lienable claims due and, owing or to become due and' owing by such contractors or subcontractors by reason of such building or remodeling contract.

(B) The monies received under any mortgage given for the purpose of construction or remodeling any structure shall upon receipt by the mortgagor be held as trust funds for the payment of all valid lienable claims due and owing or to become due and owing by such mortgagor by reason of such building or remodeling contract.

(C) The amount received by any vendor of real property under a warranty deed shall, upon receipt by the vendor, be held as trust funds for the payment of all valid lienable claims due and owing or to become due and owing by such vendor or his predecessors entitled by reason of any improvements made upon such property within four months prior to the delivery of said deed.

(D) Such trust funds shall be applied to the payment of said valid lienable claims and no portion thereof shall be used for any other purpose until all lienable claims due and owing or to become due and owing shall have been paid.

(E) If the party receiving any money shall be a corporation, such corporation and its managing officers shall be liable for the proper application of such trust funds.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER D
ENFORCEMENT OF LIENS

Section 591. Assignment of Liens

All claims for liens and rights of action to recover therefor hereunder shall be assignable so as to vest in the assignee all rights and remedies herein given, subject to all defenses thereto that might be made if such assignment had not been made. Where a statement has been filed and recorded such assignment may be made by an entry, on the same page of the mechanics' lien journal containing the record of the lien, signed by the claimant or his lawful representative, and attested by the court clerk; or' such assignment may be made by a separate instrument in writing.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 592. Enforcement by Civil Action

Any lien provided for by this chapter may be enforced by civil action in the district court and such action shall be brought within one (1) year from the time of the filing of said lien with the court clerk. The practice, pleading and proceedings in such action shall conform to the rules prescribed by the code of civil procedure as far as the same may be applicable; and in case of action brought, any lien statement may be amended by leave of court in furtherance of justice as pleadings may be in an,, matter, except as to the amount claimed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 593. Parties

In such actions all persons whose liens are filed as herein provided shall be made parties, and issues shall be made and trials had as in other cases. Where such action is brought by a subcontractor, or other person not the original contractor, such original contractor shall be made a party defendant, and shall at his own expense defend against the claim of every subcontractor, or other person claiming a lien under this chapter, and if he fails to make such defense the owner may make the same at the expense of such contractor; and until all such claims, costs and expenses are finally adjudicated, and defeated or satisfied, the owner shall be entitled to retain from the contractor the amount thereof, and such costs and expenses as he may be required to pay: *Provided*, that if the Police Chief of the Sac and Fox Nation shall make return that he is unable to find such original contractor, the court may proceed to adjudicate the liens upon the land and render judgment to enforce the same with costs.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 594. Consolidation of Action's and Stay of Trial

If several actions brought to enforce the liens herein provided for are pending at the time, the court may order them to be consolidated; and in any action brought to enforce a lien, if the building or other improvement is still in course of construction, the court, on application of any party engaged in furnishing labor or materials for such building or improvement, may stay the trial thereof for a reasonable time to permit the filing of a lien statement by such party as herein provided.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 595. Sale of Property after Judgment

In all cases where judgment may be rendered in favor of any person or persons to enforce a lien under the provisions of this subchapter, the real estate or other property shall be ordered to be sold as in other cases of sales of real estate, such sales to be without prejudice to the rights of any prior encumbrancer, owner or other person not a party to the action.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 596. Attorney's Fee

In an action brought to enforce any lien the party for whom judgment is rendered shall be entitled to recover a reasonable attorney's fee, to be fixed by the court, which shall be taxed as costs in the action.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 597. Suit by Owner to Determine Lien and Cancellation of Lien on Docket

If any lien shall be filed under the provisions of this chapter, and no action, to foreclose such lien shall have been commenced, the owner of the land may file his petition in the district court making said lien claimants defendants therein, and praying for an adjudication of said lien so claimed, and if such lien claimant shall fail to establish his lien, the court may tax against said claimant the whole, or such portion of the costs of such action as may be just. *Provided*, that if no action to foreclose or adjudicate any lien filed under the provisions for this chapter shall be instituted within one (1) year from the filing of said lien, the lien is canceled by limitation of law.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 598. Proceeds Insufficient

If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

CHAPTER SIX

ESTATES IN REAL PROPERTY

Section 601. Law Governing Real Property

Real Property within the Sac and Fox Reservation is governed by the law of the Sac and Fox Nation, except where the title is in the United States in trust for an individual Indian or in the United States for itself.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 602. Classification of Estates

Estates in real property, in respect to the duration of enjoyment, are either:

- (A) Estates of inheritance, or perpetual estates,
- (B) Estates for life,
- (C) Estates for years, or
- (D) Estates at will.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 603. Definition of Fee Estate

Every estate of inheritance is a fee, and every such estate, when not defeasible or conditional, is a fee simple or an absolute fee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 604. Estates Tail Abolished

Estates tail are abolished, and every estate which at English or American common law would be adjudged to be a fee tail is a fee simple, and if no valid remainder is limited thereon, I a fee simple absolute.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 605. Limitation of Remainder in Tail

Where a remainder in fee is limited upon any estate, which would by the common law be adjudged a fee-tail, such remainder is valid as a contingent limitation upon a fee, and vests in possession on the death of the first taker, without issue living at the time of his death.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 606. Certain Estates Defined

Estates of inheritance and for life are called estates of freehold; estates for years are chattels real; and estates at will are chattel interests, but are not liable as such to sale or execution.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 607. Estate for the Life of Another

An estate during the life of a third person, whether limited to heirs or otherwise, is a freehold.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 608. Particular Estate Not Necessary to Remainder

A future estate may be limited by the act of the party to commence in possession at a future day, either without the intervention of a precedent estate, or on the termination, by lapse of time or otherwise, of a precedent estate, created at the same time.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 609. Reversion Defined

The-reversion is the residue of an estate left, by operation of law, in the grantor, or his successors, or in the successors of a testator, commencing in possession on the determination of a particular estate granted or devised.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 610. Remainder Defined

When a future estate, other than a reversion, is dependent on a precedent estate, it may be called a remainder, and may be created and transferred by that name.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 611. Suspension of Alienation

The absolute power of alienation shall not be suspended, by any limitation or condition whatever, for a longer period than during the continuance of the lives of persons in being at the creation of the limitation or condition plus twenty-one (21) years, except as specifically provided by the laws of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 612. Suspension of Ownership Limited

The absolute ownership of a term of years cannot be suspended for a longer period than the absolute power of alienation can be suspended in respect to a fee.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 613. Contingent Remainder in Fee on Prior Remainder

A contingent remainder in fee may be created on a prior remainder in fee, to take effect in the event that the persons to whom the first remainder is limited die under the age of twenty-one (21) years, or upon any other contingency by which the estate of such persons may be determined before they attain majority.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 614. Future Estates

Subject to the rules of this Chapter, a freehold estate, as well as an estate for years, may be created to commence at future day; an estate for life may be created in a term of years and a remainder limited thereon; a remainder of a freehold or a estate for year, either contingent or vested, may be created expectant on the determination of a term of years; and a fee may be limited on a fee, upon a contingency, which if it should occur, must happen within the period prescribed herein.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 615. Certain Limitations of Estates Void

Successive estates for life cannot be limited, except to persons in being at the creation thereof, and all life estate subsequent to those of persons in being are void; and upon the death of those

persons, the remainder, if valid in its creation takes effect in the same manner as if no other life estate ha been created.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 616. Remainder on Successive Lives Must Be in Fee

No remainder can be created upon successive estates for life, provided for in the preceding section, unless such remainder is in fee; nor can a remainder be created upon such estate in term for years unless it is for the whole residue of such term.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 617. Contingent Remainder on Term of Years

A contingent remainder cannot be created on a term of years, unless the nature of the contingency on which it is limited is such that the remainder must vest an interest during the continuance or at the termination of lives in being at the creation of such remainder.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 618. Estate for Life Limited as Remainder

No estate for life can be limited as a remainder on a term of years, except to a person in being at the creation of such estate.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 619. Conditional Limitations

A remainder may be limited on a contingency which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder is to be deemed a conditional limitation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 620. Remainder in Fee to Heirs after Life Estate

When a remainder is limited to the heirs, or heirs of the body, of a person to whom a life estate in the same property is given, the person who, on the termination of the life estate, are the successors or heirs of the body of the owner for life, are entitle to take by virtue of the remainder so limited to them, and not as mere successors of the owner for life.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 621. Remainder Not Contingent

When a remainder on an estate for life or for years is not limited on a contingency defeating or avoiding such precedent estate, it is to be deemed intended to take effect only on the death of the first taker, or the expiration, by lapse of time, of such term of years.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 622. Future Estate after Unexecuted Power

A general or special power of appointment does not prevent the vesting of a future estate, limited to take effect in case such power is not executed.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 623. Termination of Estate at Will

A tenancy or other estate at will, however created, may be terminated by the landlord's giving notice to the tenant, in the manner prescribed by the next section, to remove from the premises within a period specified in the notice, of not less than one (1) month, except as provided in the Chapter on "Landlord and Tenant".

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 624. Notice of Termination

The notice prescribed by the last section must be in writing, and must be served by delivering the same to the tenant, or to some person of discretion residing on the premises; or if neither can, with reasonable diligence, be found, the notice may be served by affixing it on a conspicuous part of the premises, where it may be conveniently read.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 625. Action after Notice

After the notice prescribed by the two preceding sections has been served in the manner therein directed, and the period specified by such notice has expired, but not before, the landlord may reenter or proceed according to law to recover possession.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 626. Notice of Reentry

Whenever the right of reentry is given to a grantor or lessor in any grant or lease, or otherwise, such reentry may be made at any time after the right has accrued upon three (3) day previous written notice of intention to reenter, served in the mode prescribed in Section 624.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 627. Action for Possession

An action for the possession of real property leased or granted, with a right of reentry, may be maintained at any time after the right to reenter has accrued, without the notice prescribed in the preceding section.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 628. Easements Attached to Land

The following land burdens or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements:

- (A) The right of pasture,
- (B) The right of fishing,
- (C) The right of taking game,
- (D) The right-of-way,
- (E) The right of taking water, wood, minerals, and other things,
- (F) The right of transacting business upon the land,
- (G) The right of conducting lawful sports upon the land,
- (H) the right of receiving air, light, or heat from or over, or discharging the same upon or over land,
- (I) the right of receiving water from or discharging the same over or upon land,
- (J) the right of flooding land,
- (K) the right of having water flow without diminution or disturbance of any kind,

- (L) the right of using a wall as a party wall,
- (M) the right of receiving more than natural support from adjacent land or things affixed thereto,
- (N) the right of having the whole of a division fence maintained by a coterminous owner,
- (O) the right of having public conveyances stopped, or of stopping the same on land
- (P) the right of seat in church,
- (Q) the right of burial.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 629. Easements Not Attached to Land

The following land burdens or servitudes upon land may be granted and held, though not attached to land:

- (A) the right to pasture, and of fishing and taking game,
- (B) the right of burial,
- (C) the right to seat in church,
- (D) the right of taking rents and tolls,
- (E) the right-of-way,
- (F) the right of taking water, wood, minerals, or other things.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 630. Dominant and Servient Tenements

The land to which an easement is attached is called the dominant tenement; the land upon which a burden or servitude is laid is called the servient tenement.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 631. Who May Create Servitudes

A servitude can be created only by one who has a vested estate in the servient tenement.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 632. Who Cannot Hold Servitude

A servitude thereon cannot be held by the owner of the servient tenement.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 633. Extent of Servitude

The extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was required.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 634. Partition of Servitude

In case of partition of the dominant tenement, the burden must be apportioned according to the division of the dominant tenement, but not in such a way as to increase the burden upon the servient tenement.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 635. Rights of Owner of Future Estate

The owner of a future estate in a dominant tenement, may use easements attached thereto, for the purpose of viewing waste demanding rent, or removing an obstruction to the enjoyment of such easements, although such tenement is occupied by a tenant.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 636. Action to Enforce Easement

The owner of any estate in a dominant tenement, or the occupant of such tenement, may maintain an action for the enforcement of an easement attached thereto.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 637. Action for Possession of Servient Tenement

The owner in fee of a servient tenement may maintain an action for the possession of the land, against anyone unlawfully possessed thereof, though a servitude exists thereon in favor of the public.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 638. How Servitudes Are Extinguished

A servitude is extinguished:

- (A) By vesting of the right to the servitude and the right to the servient tenement in the same person,
- (B) by the destruction of the servient tenement,
- (C) by the performance of any act upon either tenement, by the owner of the servitude, or with his assent which is incompatible with its nature or exercise, or,
- (D) when the servitude was acquired by enjoyment, by disuse thereof by the owner of the servitude for the period prescribed for acquiring title by enjoyment.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 639. Ownership and Use of Water

The owner of the land owns water standing thereon, or flowing over or under its surface but not forming a definite stream except as otherwise provided in this title. The use of groundwater shall be governed by the laws of the Sac and Fox Nation. Water running in a definite stream, formed by nature over or under the surface, may be used by him for domestic purposes as long as it remains there, but he may not prevent the natural flow of the stream, or of the natural spring from which it commences its definite course, nor pursue nor pollute the same, as such water then becomes public water and is subject to appropriation for the benefit and welfare of the people of the Sac and Fox Nation, as provided by law. *Provided*, however, that nothing contained herein shall prevent the owner of land from damming up or otherwise using the bed of a stream on his land for the collection or storage of waters in an amount not to exceed that which he owns, by virtue of the first sentence of this section so long as he provides for the continued natural flow of the stream in an amount equal to that which entered his land less the uses allowed in this act; *provided further*, that nothing contained herein shall be construed to limit the powers of the Sac and Fox Nation to grant permission to build or alter structures on a stream to provide for the storage of additional water the use of which the landowner has or acquires by virtue of this act.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 640. Life Lease Rent

Rent due upon a lease for life may be recovered in the same manner as upon a lease for years.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 641. Life Lease Rent Recovery after Death

Rent dependent on the life of a person may be recovered after as well as before his death.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 642. Action for Injury to Inheritance

A person having an estate in fee, in remainder or reversion, may maintain an action for any injury done to the inheritance, notwithstanding any intervening estate for life or years, and although, after its commission, his estate is transferred, and he has no interest in the property at the commencement of the action.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 643. Fee Title Covers What

The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 644. Lateral and Subjacent Support, Right to

Each conterminous owner is entitled to the lateral and subjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction, on using ordinary care and skill, and taking reasonable precautions to sustain the land of the other, and giving previous reasonable notice to the other of his intention to make such excavations.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 645. Trees on Land, Ownership of

Trees whose trunks stand wholly upon the land of one owner, belong exclusively to him, although their roots grow into the land of another.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 646. Duties of Life Tenant

The owner of a life estate must keep the buildings and fences in repair from ordinary waste, and must pay the taxes and other annual charges, and a just proportion of extraordinary assessments benefitting the whole inheritance.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 647. Boundaries and Fences

Coterminous owners are mutually bound equally to maintain:

(A) The boundaries and monuments between them.

(B) The fences between them, unless one of them chooses to let his land lie open as a public common, in which case, if he afterwards encloses it, he must refund to the other a just proportion of the value, at that time, of any division fence made by the latter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 648. Appointment of Trustee Where There Are Contingent Remainders

In any case where, by will or deed or other instrument, title to real estate is in a tenant for life or other person having the right to the use thereof and income therefrom, with the remainder interest left to one or more contingent remaindermen, so that it is impossible to determine until the death of the life tenant or the future happening of some other determining event, what interest, if any, the various contingent remaindermen will take; the District Court, upon the application of the life tenant, shall have jurisdiction and authority to appoint a trustee under proper bond, over said real estate, for the purpose of leasing the same for oil and gas developing purposes.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 649. Trustee May Make Oil and Gas Leases and Other Mining Leases

Said trustee shall have the power and authority to make valid oil and gas leases and other mining leases upon said lands, for a term not to exceed ten (10) years, and as long thereafter as oil, gas or other minerals may be produced in paying quantities, said leases to be executed and approved under the same procedure now followed in leasing lands for oil and gas purposes in guardianship and estates, the bonus and rentals therefrom to be paid to the life tenant or other person entitled thereto.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 650. Trustee's Authority to Invest Income from Royalties - Payments to Life Tenant or Other Person

Under proper court order the trustee shall be authorized to invest income from royalties in like manner as funds of guardianships may be invested, which investments shall remain intact until the ultimate taker is determined and shall then be paid over to such ultimate taker and the trust closed. Income from investments shall be paid to the life tenant or other person entitled thereto.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 651. Joint Tenancy and Tenancy by Entirety

A joint interest is one owned by several persons in either real or personal property in equal shares, being a joint title created by a single instrument, will or transfer when expressly declared in the instrument, will or transfer to be a joint tenancy, or as between husband and wife a tenancy by entirety or joint tenancy as the grantor may elect, or when granting or devising to executors or trustees as joint tenants. A tenancy by entirety can only be created between husband and wife.

Such joint tenancy or tenancy by entirety may be created by transfer to persons as joint tenants or tenants by entirety from an owner or a joint owner to himself and one or more persons, or from tenants in common to themselves, or by coparceners in voluntary partition, and such estates may be created by or for persons who have elected to become bound under any community property act now in existence or which may hereafter be enacted. An adjudication of incompetency shall not operate to terminate such an estate.

Where a deed, transfer or conveyance grants an estate in joint tenancy or tenancy by entirety in the granting clause thereof, the granting clause shall control over the habendum clause containing language inconsistent to the granting clause.

In the event of the death of a joint tenant or tenant by entirety, leaving estate subject to probate, a certified copy of letters testamentary or of administration shall constitute prima facie evidence of such death.

The provisions of this act shall apply to all estates in joint tenancy or tenancy by entirety in either real or personal property heretofore or hereafter created.

Nothing herein contained shall prevent execution, levy and sale of the interest of the judgment debtor in such estates and such sale shall constitute a severance.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 652. Partial Invalidity

The provisions of this act shall be severable and if any section, subsection, sentence or clause of this act is for any reason held to be invalid such holding shall not affect the validity of the remaining portions thereof.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 653. Reformation Of Interests Violating Rule Against Perpetuities - Intent

Any interest in real or personal property that would violate the rule against perpetuities shall be reformed, or construed within the limits of the rule, to give effect to the general intent of the creator of that interest whenever that general intent can be ascertained. This provision shall be liberally construed and applied to validate such interest to the fullest extent consistent with such ascertained intent.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 654. Construction in Accordance with Cy Pres Doctrine

To effectuate the provisions hereof, all courts of the Sac and Fox Nation are, within their otherwise jurisdictional limits hereby granted the power to reform or construe interests in real or personal property, as provided in Section 1 hereof, in accordance with the doctrine of cy pres.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 655. Reformation of Offending Instruments

If an instrument violates the rule against perpetuities, but can be reformed or construed in accordance with the provisions of this act, it shall not be declared totally invalid. Rather, the provisions thereof that do not offend the rule shall be enforced, and only the provisions thereof that do violate, or might violate, the rule shall be subject to reformation or construction under the doctrine of cy pres within the terms of this act.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 656. Applicability to Certain Inter Vivos Instruments, Wills and Appointments

This act shall apply to inter vivos instruments and will taking effect after the act becomes effective, and to appointments made after the act becomes effective, including appointments by inter vivos instruments or will under powers created before the act becomes effective. The act shall apply to both legal and equitable interests.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

SUBCHAPTER A
LAND DEVELOPMENT

Section 657. Nature of Developments

The term “real estate development” shall include developments:

(A) Which consist or will consist of separately owned lots, parcels or either with both of the following features:

(1) One or more additional contiguous or noncontiguous lots, parcels or areas owned in common by the owners of the separately owned lots, parcels or areas, and

(2) Mutual, common or reciprocal interests in o] restrictions upon, all or portions of such separately owned lots, parcels or areas, or both.

(B) The estate in a separately or commonly owned lot, parcel or area may be an estate of inheritance, estate ix fee, an estate for life, or an estate for years.

(C) Either common ownership of the additional contiguous o] noncontiguous lots, parcels or areas referred to ii subparagraph (a) of paragraph (1) above, or the enjoyment of the mutual, common or reciprocal interests in, 0] restrictions upon the separately owned lots, parcels o] areas pursuant to subparagraph (b) of paragraph (1) above, or both, may be through ownership of shares of stock or membership in an owners association or otherwise.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 658. Owners Association

(A) An “owners association” may be formed by the owner or owners of real estate development for the purpose of:

(1) Providing management, maintenance, preservation and control of commonly owned areas or any portion of or interest in them, and/or

(2) Enforcing all mutual, common or reciprocal interests in or restrictions upon all or portions of such separately owned lots, parcels, or areas, or both

(B) An owners association shall be formed by the execution of an instrument signed and acknowledged by all owners of the real property included. Such instrument shall set forth in detail the nature of the obligations of the members and shall be filed of record in the office of the Court Clerk of the District Court. The instrument shall include a description of said real property.

(C) The owners association shall have the power to enforce any obligation in connection with membership in the owners association by means of a levy or assessment which may become a lien upon the separately or commonly owned lots, parcels or areas of defaulting owners or members, which said lien may be foreclosed in any manner provided by law for the foreclosed or mortgages or deeds or trust, with or without a power of sale; *provided, however*, that no lien may be placed or mortgage foreclosed unless the homeowner was informed in writing upon joining the owners association of the existence and content of the owners association restrictions and rules, and of the potential for financial liability to the individual owner by joining said owners association.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 659. Taxes and Special Assessments

Each separately owned lot, parcel or area together with its proportionate interest in the common element, shall constitute a separate and distinct unit; for the purpose of assessment of taxes, special owners of real property, and each holder of such shall be liable solely for the amount of taxes against his individual estate and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 660. Membership

Membership of said owners association shall consist of recorded owners of separately owned lots in the real estate development. Membership is transferred upon legal transfer of title to the separately owned lots. The owners association may also enforce the covenant and restrictions of the real estate development when specified by the covenants and restrictions.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 661. Application of Chapter

The powers granted the owners association under this chapter shall apply only to owners associations created subsequent to the effective date of this Title.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Sections 662 - 663. Reserved

SUBCHAPTER B
UNIT OWNERSHIP ESTATES

Section 664. Creation of Unit Ownership Estate

A unit ownership estate may be created by an owner or the co-owners of a building by an express declaration of the intention to submit such property to the provisions of this subchapter, which declaration shall be recorded in the office the court clerk of the District Court.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 665. Definitions

Unless it is plainly evident from the context that different meaning is untended, as used herein:

(A) “Declaration” means the instrument, duly recorded, which the property is submitted to the provisions of this subchapter, as hereinafter provided, and such declaration may be amended from time to time;

(B) “Unit” means an enclosed space consisting of one more rooms occupying all or part of a floor or floors in building of one or more floors or stories regardless whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, *provided* it has direct exit to thoroughfare; if so provided in the declaration, a unit it include some portion of the land constituting a part of t condominium property and improvements thereon not a part the common elements. The subchapter and any deed, declaration, or plan for a condominium project shall liberally construed to facilitate the establishment a operation of the project;

(C) “Unit designation” means the number, letter combination thereof designating the unit in the declaration

(D) “Building” means one or more buildings or structures comprising a part of the property;

(E) “Unit owner” means a person owning a unit within t building;

(F) “Person” means an individual, corporation, partnership association, trust or other legal entity, or any combination thereof;

(G) “Unit ownership estate” means the ownership of single units in a multi-unit building together with an undivided interest in the common elements;

(H) “Common elements” means and includes the general common elements and limited common elements;

(I) Unless otherwise provided in the declaration or by consent of all the unit owners, “general common elements” means and includes:

(1) The land, whether leased or in fee simple, on which the building stands and such other land and improvements thereon as may be specifically included in the declaration, except any portion thereof included in a unit;

(2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, fire escapes, and entrances and exits of the building;

(3) The basements, yards, gardens, parking areas and storage spaces;

(4) The premises for the lodging of janitors or persons in charge of the property as herein after defined;

(5) Installations of central services such as power, light, gas hot and cold water, heating, refrigeration, air conditioning and incinerating;

(6) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general, all apparatus and installations existing for common use;

(7) Such community and commercial facilities as may be provided for in the declaration; and

(8) All other elements of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(J) “Limited common elements” means and includes those common elements which are agreed upon by all the unit owners to be reserved for the use of certain number of units to the exclusion of the other units, such as special corridors, stairways and elevators, sanitary services common to the units of a particular floor, and the like;

(K) “Common expenses” means and includes:

(1) Expenses of administration, maintenance, repair or replacement of the common elements;

(2) Expenses agreed upon as common by all the unit owners;

(L) “Common profits” means the balance of all income, rents, profits and revenues from the common elements and facilities remaining after the deduction of the common expenses;

(M) “Council of unit owners” means all the unit owners;

(N) “Majority of unit owners” means the owners of more than fifty percent (50%) of the aggregate interest in the general common elements as established by the declaration. Any

specified percentage of unit owners means such percentage in the aggregate of such undivided ownership;

(O) “Recordation” means to file of record in the office of the court clerk in the District Court in the manner provided by law for recordation of instruments affecting real estate;

(P) “Property” means and includes the land, whether leasehold or in fee simple, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 666. Status and Title Created

A unit ownership estate as created and defined in this subchapter shall vest in the holder, exclusive ownership and possession; shall constitute an estate in real property which may be conveyed, encumbered, inherited, devised, or otherwise dealt with consistent with the laws of the Sac and Fox Nation; and shall, for all purposes, be deemed in law to be an estate entirely independent of the other unit ownership estates in the building of which it forms a part. The individual title and interest of such estate shall be recorded in the manner provided by law for recording instruments affecting title to real property. Such estate may be held and owned by more than one person, as defined herein, in any manner recognized under the laws of the Sac and Fox Nation.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 667. Undivided Interest in Common Elements

(A) Each unit owner shall be entitled to an undivided interest in the common elements in the ratio expressed in the declaration. Such ratio shall be in the approximate relation that the fair value of the unit at the date of the declaration bears to the then aggregate fair value of all the units having a interest in such common elements.

(B) The ratio of the undivided interest of each unit owned in the common elements as expressed in the declaration shall have a permanent character and shall not be altered except with the unanimous consent of all unit owners having an interest expressed in an amended declaration duly recorded.

(C) The undivided interest in the common elements shall no be separated from the unit to which it appertains and shall b deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 668. Common Elements to Remain Undivided

The common elements, both general and limited, shall remain undivided and no unit owner shall bring any action for partition or division of any part thereof, except as specifically permitted in the this subchapter. Any covenant to the contrary shall be null and void.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 669. Use of Common Elements

Each unit owner may use the common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other unit owners.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 670. Rules and Bylaws

Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, maintainable by the manager or board of managers on behalf of the council of unit owners or, in a proper case, by an aggrieved unit owner.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 671. Maintenance and Repair

The necessary work of maintenance and repair of the common elements and the making of any additions or improvements thereto, shall be carried out only as provided in the bylaws.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 672. Prohibited Work

No unit owner shall do any work which would jeopardize the soundness or safety of the proper or impair any easement or hereditament without in every such case the unanimous consent of all the unit owners affected being first obtained.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 673. Liens Against Unit Estates

(A) While the property remains subject to this subchapter, no lien shall arise or be effective against the property as a whole, but only against each unit ownership estate and such lien shall attach in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel or real property subject to individual ownership; *provided, however*, that no labor performed or materials furnished with the consent or at the request of a unit owner or his agent, his contractor, or subcontractor, shall constitute the bases for a mechanic's or materialmen's lien against the unit ownership estate or any other property or any other unit owner who has not expressly consented to or requested the same, such consent to be presumed to have been given by the unit owner in case of emergency repair thereto. Labor performed or materials furnished for the common elements, if duly authorized by the council of unit owners or its duly authorized agent in accordance with this subchapter, the declaration, or by-laws shall be deemed to be performed or furnished with the express consent of each unit owner and shall constitute the basis for a mechanic's or materialmen's lien as now provided by law against each of the unit ownership estates in the property but shall be subject to the provisions of subsection B.

(B) When a lien against two or more unit owners is asserted, each unit owner may discharge his unit ownership estate from such lien by payment to the lienor of the fractional or proportional amount which is attributable to his unit ownership estate. Such individual obligation shall be computed by reference to the percentage of interest set forth in the declaration. Upon such payment or satisfaction of the lien claim, the unit ownership estate shall be free and clear of the lien claim but such release of the unit owner shall not prevent the lienor from proceeding to establish and enforce his rights against any other unit owner who has not so discharged his obligation to the lienor.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 674. Expense of Administration

(A) The unit owners are bound to contribute pro rata, in the percentages computed according to Section 667 of this subchapter toward the expenses of administration and of maintenance and repair of the general common elements and in proper cases, of the limited common elements, of the building and toward any other expense lawfully agreed upon.

(B) No unit owner may exempt himself from contributing toward such expense by waiver of the use of enjoyment of the common elements or by abandonment of the unit belonging to him.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 675. Common Profits

The common profits of the property shall be distributed among the unit owners in the percentages computed according to Section 667 of this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 676. Declaration Creating Estate

The declaration creating and establishing unit ownership estates as provided in Section 664 of this subchapter, shall be recorded and shall contain the following particulars:

- (A) Legal description of the land,
- (B) Description of the building, stating the number of stories and basements, the number of units, and the principal materials of which it is constructed,
- (C) The unit designation of each unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification.
- (D) Description of the general common elements and the proportionate interest of each unit owner therein,
- (E) Description of the limited common elements, if any, stating which units shall share the same and in what proportion,
- (F) The name of a person to receive service of process in the cases hereinafter provided together with the residence or place of business of such person which shall be within the jurisdictional area of the Sac and Fox Nation,
- (G) The method which the declaration may be amended, consistent with the provisions of this subchapter and,
- (H) Any other details or restrictions in connection with the property which the person executing the declaration may deem desirable to set forth.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 677. Deeds Conveying Estates – Recording – Contents

Deeds conveying unit ownership estates shall be recorded and shall contain the following particular:

- (A) Legal description of the property of which the unit forms a part,
- (B) The unit designation as contained in the declaration and any other data necessary for its proper identification,
- (C) The undivided interest in the common elements which appertain to the unit, and
- (D) Any further details which grantor and grantee may deem desirable.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 678. Plans Attached to Declarations

There shall be attached to the declaration, at the time it is filed for record, a full and exact copy of the plans of the building, which copy of plans shall be entered of record along with the declaration. Said plans shall show graphically all particulars of the building, including but not limited to, the dimensions, area and location of each unit therein and the dimensions, area and location of common elements affording access to each unit. Other common elements, both limited and general, shall be shown graphically in so far as possible and shall be described in detail in words and figures. Said plan shall be certified to by an engineer or architect, whichever is appropriate to the subject, who is authorized and licensed to practice his profession.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 679. Removal of Property from Unit Ownership

(A) The unit owners, by unanimous action, may remove a property from the provisions of this subchapter by an instrument to that effect, duly recorded, *provided* that the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to an undivided interest in the property.

(B) Upon removal of the property from the provisions of this subchapter, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common elements and facilities.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 680. Resubmission of Property to Unit Ownership

The removal provided for in the proceeding section shall in no way bar the subsequent resubmission of the property to the provisions of this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 681. Administration and Bylaws

The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and to the first deed of each unit.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 682. Necessary Contents of Bylaws

The bylaws must necessarily provide for at least the following:

(A) Form of administration, indicating whether in charge of an administrator or a board of administration, or otherwise, and specifying the powers, manner of removal and, where proper, the compensation therefor,

(B) Method of calling or summoning the unit owners to assemble; that a majority of unit owners, as defined in Section 665 (14) of this subchapter is required to adopt decisions; who is to preside over the meeting and who will keep the minute book wherein the resolutions shall be recorded,

(C) Care, upkeep and surveillance of the building and its general or limited common elements and services,

(D) Manner of collecting from the unit owners for the payment of the common expenses,

(E) Designation and dismissal of the personnel necessary for the maintenance, upkeep and repair of the common elements,

(F) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in or appended to the declaration as are designed to prevent unreasonable interference with the use of their respective units and of the common element by the several unit owners,

(G) That seventy-five percent (75%) of the unit owners computed on the basis set forth in Section 665 (N) of this subchapter may at any time modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws. Such modification or amendment shall not become operative unless set forth in an amended declaration and duly recorded.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 683. Books and Records

The administrator, or the board of administration, or other form of administration specified in the bylaws, shall keep a book with a detailed account, in chronological order, of the receipt; and expenditures affecting the common elements specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. Both said book and the vouchers accrediting the entries made thereupon shall be available for examination by all the unit owners at convenient hours on working days that shall be set and announced for general knowledge.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 684. Homestead Exemptions Applicable

The laws relating to homestead exemption from taxes and the laws relative to homestead exemption from attachment, execution, or other forced sale shall be applicable to a unit ownership estate with the same force and effect as they are now or shall hereafter be applicable to other estates in real property; and the benefit of homestead exemption shall extend to the holder of a unit ownership estate in all those cases where the owner of a single family dwelling would qualify therefor.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 685. Assessment of Taxes

Each unit, together with its proportionate interest in the common elements, shall constitute a separate and distinct unit for the purpose of assessment of taxes, special assessments, and other charges which may be lawfully assessed against owners of real property, and each holder of a unit ownership estates shall be liable solely for the amount of taxes against his individual estates and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 686. Liens for Common Expenses

(A) All sums assessed by the council of unit owners for the share of the common expenses chargeable to any unit which sums remain unpaid shall constitute a lien on such unit prior to all other liens except the following:

- (1) Assessments, liens, and charges for taxes past due and unpaid on the unit,
- (2) Judgments entered in a court of record prior to the date of common expense assessment,

(3) Mortgage instruments of encumbrance duly recorded prior to the date of such assessment,

(4) Mechanic's and materialmen's liens arising from labor performed or materials furnished upon a unit prior to the date of such assessment, and,

(5) Mechanic's and materialmen's liens for labor] performed or material furnished upon the common elements to the extent of the proportionate part chargeable to the unit owners which constitute a part of an assessable charge for common expenses satisfaction of which shall discharge the assessment to the extent of the payment made.

(B) The assessment lien may be foreclosed by suit instituted by the council of unit owners or a duly authorized agent thereof in like manner as an action for foreclosure of a mortgage upon real property. In any such foreclosure proceedings, the unit owner shall be required to pay a reasonable rental for the use of his unit, if so provided in the bylaws and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The council of unit owners, or their authorized agent, shall have power, unless prohibited by the declaration, to bid in at the foreclosure sale and to acquire and hold, lease, mortgage and convey the unit ownership estate and to acquire same at the foreclosure sale. Suits to recover money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(C) Upon sale or conveyance of a unit encumbered by an assessment lien, such lien shall be paid first, out of the sale proceeds or by the grantee, subject only as aforesaid.

(D) Where the holder of a first mortgage of record or other purchaser obtains title to the unit ownership estate as a result of foreclosure of the first mortgage, such acquirer of title shall not be liable for the share of the common expenses or assessments by the council of unit owners chargeable to such unit which became due prior to acquisition of title to such unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all the unit owners, including such acquirer.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 687. Unpaid Common Expenses

The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of grant or conveyance, without prejudice to the grantee's right to recover from the grantor therefor. However, any such grantee shall be entitled to a statement from the manager or board of managers, as the case may be, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments in excess of the amount therein set forth.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 688. Insurance

The unit owners may, upon resolution of a majority, insure the property against risks, without prejudice to the right of each unit owner to insure his unit on his own account and for his own benefit. The premiums for such insurance of the property shall be deemed common expenses.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 689. Repair of Damage to Building

Except as hereinafter provided, damage to or destruction of the building shall be promptly repaired and restored by the manager or board of managers, using the proceeds of insurance, if any, on the building for that purpose, and the unit owners shall be liable for assessment for any deficiency; *provided, however*, that if there is substantially total destruction of the property, or if seventy-five percent (75%) of the unit owners computed on the basis set forth in Section 665 {14} duly resolve not to proceed with repair or restoration, then and in that event that property or so much thereof as shall remain, shall be subject to partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among all the unit owners in proportion to their respective undivided ownership of the common elements, after first paying off, out of the respective shares of unit owners, to the extent sufficient for that purpose, all liens on the unit of each unit owner. The manager, or board of managers, as the case may be, and their agents and employees shall have an easement to enter units to make repairs to common elements or when the repairs reasonably appear to be necessary for public safety or to prevent damage to property other than the unit.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 690. Obsolete Property

Ninety percent {90%} of the unit owners computed on the basis set forth in Section 665 (14) of this subchapter may agree that the property is obsolete in whole or in part and whether or not the same shall be renewed and restored or the property sold and the proceeds of sale distributed. If such percent of the unit owners agree to renew and restore the property, then the expense thereof shall be payable by all the unit owners as common expenses. If, however, such percent of the unit owners agree that the property be sold, then the property shall be subject to partition at the suit of any unit owner, in which event the net proceeds of sale shall be divided among all the unit owners in proportion to their respective undivided ownership of the common elements, after first paying off out of the respective shares of the unit owners, all liens on the unit of each unit owner.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 691. Actions Relating to Common Elements

Actions may be brought on behalf of two or more of the unit owners, as their respective interests may appear, by the manage or board of managers, with respect to any cause of action relating to the common elements or more than one unit. Service of process on two or more unit owners in any action relating to the common elements or more than one unit may be made on the person designated in the declaration to receive service of process.

[PUBLIC LAW #SF-89-89, July 27, 1989.]

Section 692. Persons Subject to Subchapter

All unit owners, tenants of such owners, employees of owners and tenants, or other persons that may in any manner use property or any part thereof submitted to the provisions of this subchapter shall be subject to this subchapter and to the declaration and bylaws of the council of unit owners adopted pursuant to the provisions of this subchapter.

[PUBLIC LAW #SF-89-89, July 27, 1989.]