

**SISSETON-WAHPETON OYATE**

**CHAPTER 70  
 2017 SPECIAL FINANCIANING SECURED TRANSACTIONS CODE**

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**PART 1**  
**GENERAL PROVISIONS**

**70-01-01 Title**

This Code shall be known as the “Sisseton-Wahpeton Oyate Special Financing Secured Transactions Code.”

**70-01-02 Purpose**

The purpose of this Code is to recognize that under the law of the Sisseton-Wahpeton Oyate, a federally recognized Indian tribe (the “**Tribe**”), except as otherwise provided in this Code, secured parties shall have the same rights with respect to personal property and fixtures in which a Tribal Party (as defined below) has rights or otherwise subject to the sovereign authority of the Tribe as would exist if all aspects of the security interest (including but not limited to its creation, attachment, perfection, and priority) had been governed by the State UCC, without regard to the choice of law principles set forth therein. This Code is adopted in connection with the interpretation and enforcement of the certain financial documents between the Tribe and the Shakopee Mdewankanton Sioux Community.

**70-01-03 Jurisdiction**

In accordance with Article I of the Sisseton-Wahpeton Oyate Revised Constitution and By-Laws, the Tribal Council hereby affirmatively declares, asserts, and extends the jurisdiction of the Tribe over all areas within the original exterior boundaries of the Lake Traverse Indian Reservation, as described in Article III of the Treaty of February 19, 2867, that are held by the United States in trust for the Tribe or any individual Indian, all other lands owned by the Tribe or any individual Indian, all allotments covered by 18 U.S.C. § 1151(c), and all dependent Indian Communities within the original boundaries of the Lake Traverse Indian Reservation as defined by 18 U.S.C. § 1151(b), as well as all depending Indian Communities otherwise deemed to be Indian Country and subject to the jurisdiction of the Sisseton-Wahpeton Oyate.

**70-01-04 Severability**

If any clause, sentence, paragraph, section, or part of this Code shall, for any reason be adjudicated by the Tribal or Appellate Court to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof, directly involved in the controversy in which the judgment shall have been rendered.

**70-01-05 Construction**

This Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Resolutions, and Regulations of the Sisseton-Wahpeton Oyate.

**70-01-06 Amendment**

This Code may be amended only upon an affirmative vote of a majority of the Council of the Sisseton-Wahpeton Oyate. Once applicable to any security interest, this Code shall remain in effect with respect to that security interest until all obligations secured thereby have been fully and finally discharged or otherwise fully satisfied, except that this Code may be amended, with prior notice to each secured party, only to the extent such amendment is not adverse in any way to any secured party with respect to any security interest.

**70-01-07 Effect of headings**

Heading shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Code.

**PART 2  
DEFINITIONS**

**70-02-01 Interpreting Definitions**

Words or phrases used in this Code shall be interpreted so as to give them the meaning they have in common usage for the Sisseton-Wahpeton Oyate and give this Code its most reasonable application. The words and phrases in this Part or specifically defined and shall control and prevail over any other definition and shall have the following meanings. Any undefined terms that are defined in the State UCC are used in this Code with the meanings that apply in the State UCC.

**70-02-02 Pledged Revenues.** “Pledged Revenues” means (i) all of a Tribal Party’s money, earnings, income, and revenues (and any proceeds thereof), and (ii) all of the Tribal Party’s rights to, and interest with respect to, receiving the foregoing before actual possession, in each case (whether described in clause (i) or clause (ii)) whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which a Tribal Party has granted a security interest to a secured party in a writing signed by the Tribal Party.

**70-02-03 State UCC.** “State UCC” means the provisions of Articles 1 and 9, and the applicable provisions of Article 2, 2A, 3, 4, 5, and 8 referenced by Article 9 of the Uniform Commercial Code as enacted in the State of South Dakota, and as same may be amended from time to time by the State of South Dakota.

**70-02-04 Tribal Lands.** “Tribal Lands” means all lands within the Tribe’s reservation and all lands held in restricted fee status or held by the United States in trust for the benefit of the Tribe or individual members of the Tribe over which the Tribe exercises jurisdiction.

**70-02-05 Tribal Party.** “Tribal Party” means the Tribe and any division, subdivision, branch, department, board, committee, commission, agency, enterprise, instrumentality, or entity wholly-owned or wholly-controlled, directly or indirectly, by the Tribe, along with the successors and assigns of each.

**PART 3  
SCOPE**

**70-03-01** This Code shall apply to all security interests and personal property and fixtures in which a Tribal Party has rights or otherwise subject to the sovereign authority of the Tribe to the same extent provided in Section 57A-9-109 of the State UCC, except that provisions of Section 57A-9-109(c)(2) and 109(c)(3) of the State UCC shall be ineffective to limit the application of the State UCC in accordance with this Code.

**70-03-01** This Code is intended to be a law, within the meaning of Section 57A-9-307(c) of the State UCC which generally requires information concerning the existence of a non-possessory security interest to be made available in a filing, recording, or registration system as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

**PART 4  
LAWS APPLICABLE TO SECURITY INTERESTS**

**70-04-01 State UCC Applicable to Security Interests**

With respect to any security interest to which this Code applies, except as provided elsewhere in this Chapter, the rights and obligations of any person shall be governed by the State UCC, including those rights and obligations related to enforcement of a security interest or arising after a default, including all filing requirements, which shall be done with the Secretary of State for the State of South Dakota; provided, however, that nothing herein shall prevent variation of the effect of any provision of the State UCC by agreement (including any applicable choice-of-law provision) to the extent that such variation is permitted under Sections 57A-1-301 and 57A-1-302 of the State UCC.

**70-04-02 Perfection of Security Interests**

Except as provided elsewhere in this Chapter, the perfection, effect of perfection or nonperfection, and priority of any security interest to which this Code applies shall be determined in accordance with the State UCC as if each debtor were (for purposes of Sections 57A-9-301 through 9-307 of the State UCC) located in the State of South Dakota and as if the Tribal Lands were subject to the laws of the State of South Dakota.

**70-04-03 Security Interest by Tribal Party in Pledged Revenues**

Notwithstanding any provision of the State UCC or this Code to the contrary, a security interest granted by a Tribal Party in Pledged Revenues shall be created and attach upon the giving of value and such Tribal Party's authentication and delivery of a security agreement that provides a description of such collateral (whether or not using the term, "pledged revenues"). Such security interest may be perfected only by the filing of an initial financing statement in the same manner and in the same location as if all of such Pledged Revenues were accounts.

**70-04-04 Financing Statements**

No financing statement shall be required to be filed with the Tribe, nor shall any filing, if filed, be effective.

**PART 5  
MISCELLANEOUS PROVISIONS**

**70-05-01 Effective Date and Repealer**

- A. To the extent any provision of any law, ordinance, resolution, motion, or any other action of any Tribal Party heretofore taken is in conflict with any provision of this Code, the provision of this Code shall supersede and the conflicting provision shall be, and hereby is, repealed.
- B. This Code is effective upon the date of its enactment by the Tribal Council of the Sisseton-Wahpeton Oyate.

**PART 6  
NO WAIVER OF SOVEREIGN IMMUNITY; TRIBAL SOVEREIGNTY**

**70-06-01** Nothing in this Code shall waive or impair the Tribe's sovereign immunity or the sovereign immunity of any other Tribal Party.

**70-06-02** The adoption of the state UCC through this code does not represent an adoption by the Tribe of the substantive law of the State of South Dakota, and further does not constitute a waiver or cessation of the jurisdiction of the Tribe for any purposes.

**WEIGHTED VOTE ON MOTION NO. 19:** 17 For: Lois Owens (3); Alvah Quinn Sr. (2); Winfield Rondell Jr. (3); Edmund Johnson Jr. (2); Francis Crawford (2); Justin Chanku (2); Arnold White Jr. (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**

**MOTION NO. 20:** made by Justin Chanku, second by Arnold White Jr., question by Edmund Johnson Jr., to authorize the purchase of two (2) busses from Harlow's Bus Sales for the Community Transit Program, in the total amount of \$118,958.00, with the Community Transit Program grant as the funding source, and to authorize the Tribal Chairman to sign for these purchases, as presented by Tribal Chairman David Flute.

**WEIGHTED VOTE ON MOTION NO. 20:** 17 For: Lois Owens (3); Alvah Quinn Sr. (2); Winfield Rondell Jr. (3); Edmund Johnson Jr. (2); Francis Crawford (2); Justin Chanku (2); Arnold White Jr. (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**

**MOTION NO. 21:** made by Alvah Quinn Sr., second by Justin Chanku, question by Lois Owens, to approve the draft resolution, "Repeal of Chapter 70 – Amended and Restated Special Financing Secured Transactions Code, Repeal of Chapter 71 – 1998 Special Financing Ordinance, and Adoption of Chapter 70 – 2017 Special Financing Secured Transactions Code", as presented by Tribal Attorney Shaun Eastman.

**WEIGHTED VOTE ON MOTION NO. 21:** 17 For: Lois Owens (3); Alvah Quinn Sr. (2); Winfield Rondell Jr. (3); Edmund Johnson Jr. (2); Francis Crawford (2); Justin Chanku (2); Arnold White Jr. (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**  
**Resolution No. SWO-17-**

**MOTION NO. 22:** made by Francis Crawford, second by Alvah Quinn Sr., question Lois Owens, to approve the Tribal Chairman report, as presented by Tribal Chairman David Flute.

**WEIGHTED VOTE ON MOTION NO. 22:** 17 For: Lois Owens (3); Alvah Quinn Sr. (2); Winfield Rondell Jr. (3); Edmund Johnson Jr. (2); Francis Crawford (2); Justin Chanku (2); Arnold White Jr. (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**

**Note:** Long Hollow Tribal Council Member Justin Chanku excused from meeting due to illness.