

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

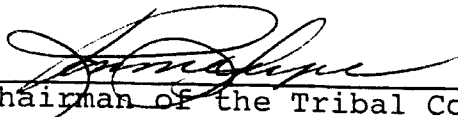
- WHEREAS, The Tribal Council is aware of problems encountered by members of the White Mountain Apache Tribe who wish to purchase personal property such as automobiles, mobile homes and large appliances for their households, because vendors or financial institutions off the reservation are often unwilling to sell such items to Tribal members because of the fear that they will be unable to repossess the personal property on the reservation in the event that the Tribal Member purchaser defaults in his payments, and
- WHEREAS, the Tribal Council of the White Mountain Apache Tribe believes that it is in the best economic interest of the people of the Tribe to provide a means by which finance companies can sell to Tribal Members and legally repossess said items in the event of default by the purchaser, and
- WHEREAS, the Tribal Council is also acutely aware of unfair repossessions and illegal acts by vendors off the reservation who sometimes unfairly repossess items when the Tribal Member purchaser is not in default, and
- WHEREAS, the Tribal Council concludes that a Tribal Ordinance should be passed to protect and secure the sovereignty of the White Mountain Apache Tribe and to protect the personal property of members of the Tribe and to provide a uniform means by which disputes over the rightful possession of personal property purchased on the installment plan can be resolved, and
- WHEREAS, the Tribal Attorney, in response to a Tribal Council directive, has drafted a proposed Ordinance providing for the resolution of disputes arising over payment of secured personal property purchased by Tribal members and the Tribe itself and that said proposed Ordinance, which is attached hereto, prohibits repossessions without the written consent of the Tribal Member or Tribe, or in the alternative, if written consent is not given, that proper actions be initiated first in the Tribal Court, and

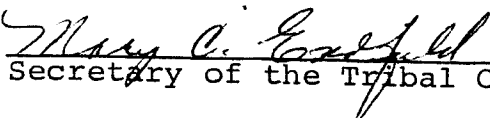
WHEREAS, the Tribal Council further concludes that the proposed Ordinance should be posted in public places throughout the reservation as required by the Tribal Constitution in order to encourage public comment on the Ordinance and to receive suggestions as to any modifications.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that the proposed Tribal Ordinance of the White Mountain Apache Tribe, outlining repossession procedures on the Fort Apache Indian Reservation, be posted publicly for a period of at least ten (10) days as required by the Tribal Constitution and Bylaws of the White Mountain Apache Tribe.

BE IT FURTHER RESOLVED by the Tribal Council that it urges all interested parties to make any comments, criticisms or suggestions in respect to the proposed Ordinance before it is finally enacted by the Tribal Council and that all such comments may be directed to individual members of the Tribal Council or the office of the Tribal Attorney.

The foregoing resolution was on July 17, _____, 1984, duly adopted by a vote of 9 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 () of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984)


Chairman of the Tribal Council


Secretary of the Tribal Council

RECEIVED
JUL 20 1984
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

PROPOSED TRIBAL ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE

Section 101. Purposes

The underlying purposes and policies of this ordinance are:

(1) To protect and secure the sovereignty of the White Mountain Apache Tribe.

(2) To protect the safety and personal property of the members of the White Mountain Apache Tribe and the tribe itself.

(3) To provide for the simple and speedy resolution of disputes which arise out of secured transactions entered into by a tribal member, or the White Mountain Apache Tribe and any of its economic subsidiaries and departments, wherein repossession of personal property located within the boundaries of the White Mountain Apache Tribe is sought.

Section 102. Supplementary principles of law applicable

Unless displaced by the provisions of this ordinance, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause shall supplement its provisions.

Section 103. U.C.C. Provisions

Insofar as there is no conflict with the provisions of this ordinance, the provisions of the Uniform Commercial Code dealing with secured transactions, and set forth in Title 47 of the Arizona Revised Statutes shall supplement this ordinance and shall apply to disputes arising in connection with its administration and enforcement.

Section 104. Applicability of ordinance

This ordinance shall apply to the repossession of personal property which serves as collateral in secured transactions entered into by members of the White Mountain Apache Tribe, or the White Mountain Apache Tribe and any of its economic subsidiaries and departments, but only if the situs of the personal property is within the boundaries of the Reservation of the White Mountain Apache Tribe. Any conflict between the provisions of this ordinance and the laws of the State of Arizona shall be governed by the provisions of this ordinance.

Section 105. Definitions

In this ordinance, unless the context otherwise requires:

(1) "Business" includes any enterprise, organization, trade, occupation or profession, whether or not operated as

a legal entity or for profit, including any business trust, corporation, partnership, joint venture or sole proprietorship.

(2) "Consumer goods" are those goods that are used or brought for use primarily for personal, family or household purposes.

(3) "Enrolled member" means one who has been duly enrolled as a member of the White Mountain Apache tribe as provided by tribal law.

(4) "Indian" means any person of Indian descent who is a member of a federally recognized Indian Tribe according to the laws of that Tribe, and any other person recognized by federal law as an Indian for any purpose, and denotes both the singular and the plural.

(5) "Non-member" means any individual who is not a member of the White Mountain Apache Tribe.

(6) "Person" includes a corporation, company, partnership, firm, association or society, as well as a natural person, and the White Mountain Apache Tribe and its economic subsidiaries and departments.

(7) "Personal Property" includes all things which are movable at the time a secured transaction is entered into and which in fact serve as security for payment or performance of an obligation arising out of said transaction, but does not include money, documents, instruments, accounts,

chattel paper, general intangibles, contract rights and other things in action. Personal property also includes the unborn young of animals and growing crops.

(8) "Procedures of repossession" refers to the rights of a secured party under Arizona law, and as set forth in A.R.S. 47-9501 et seq.

(9) "Purchaser" means the person who owes payment or other performance of an obligation secured by personal property. Whether or not the purchaser owns or has rights in the personal property.

(10) "Secured Party" means a lender, seller or other person who has agreed that personal property shall serve as security for payment or performance of an obligation.

(11) "Secured Transaction" means any transaction in which personal property acts to secure payment or performance of an obligation by the buyer-owner of the personal property, and wherein the lender, seller or other person retains or reserves equitable title to the personal property notwithstanding shipment or delivery to the buyer-owner.

(12) "Tribal Member" means a member of the White Mountain Apache Tribe, as defined by Tribal law.

(13) "Tribe" means the White Mountain Apache Tribe on the Fort Apache Indian Reservation.

Section 106. Repossession of personal property

The personal property of enrolled members of the White Mountain Apache Tribe, or the tribe and its economic subsidiaries and departments shall not be taken from land subject to the jurisdiction of the White Mountain Apache Tribe under the procedures of repossession except in strict compliance with the following:

(1) Written consent to remove the personal property from land subject to the jurisdiction of the White Mountain Apache Tribe shall be secured from the purchaser at the time repossession is sought. The written consent shall be retained by the creditor and exhibited to any Judicial or law enforcement officer of the White Mountain Apache Tribe upon demand.

(2) Where the Tribal member, or the tribe and its economic subsidiaries and departments, refuses to sign said written consent to permit removal of the personal property from land subject to the jurisdiction of the White Mountain Apache Tribe, said Personal property shall be removed only by order of the Tribal Court of the White Mountain Apache Tribe after an appropriate legal proceeding, wherein the rights and liabilities of the parties are determined.

Section 107. Violations-Sanctions

(a) Any nonmember of the White Mountain Apache Tribe, found to be in wilful violation of §106 of this ordinance may be excluded from land subject to the jurisdiction of the White Mountain Apache Tribe in accordance with the procedure set forth in Tribal Ordinance No. 142, as amended, of the White Mountain Apache Tribe.

(b) Any business whose employees or agent(s) are found to be in wilful violation of § 106 of this ordinance may be denied the privilege of doing business on land subject to the jurisdiction of the White Mountain Apache Tribe.

(c) Any Indian who violates any provision of § 106 of this ordinance shall be guilty of a crime, and upon conviction shall be punished by a fine of not more than \$100.

Section 108. Civil liability

(a) Any person who violates § 106 of this ordinance and any business whose employee or agent(s) violates such section is deemed to have breached the peace of the lands under the jurisdiction of the White Mountain Apache Tribe, and shall be civilly liable to the purchaser for any loss caused by the failure to comply with § 106 - 108 of this ordinance.

(b) If the personal property repossessed, in violation of §106-108 is consumer goods, then the purchaser has the

right to recover in any event an amount not less than the credit service charge plus 10% of the principal amount of the debt or the time price differential plus 10% of the cash price.

Section 109 Severability

If any provision or clause of §106-108 inclusive, or application thereof to any person or any business or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this resolution are declared to be severable.

Section 110

The Tribal Court shall have Jurisdiction of all actions arising under this ordinance pursuant to the provisions of the Tribal Code relating to Civil and Criminal Jurisdiction.

Section 111

Nothing in this ordinance shall be construed as a waiver of the sovereign immunity of the White Mountain Apache Tribe in any court for any purpose.