

SECHELT INDIAN BAND

LAW NO. 1998-01

A LAW TO PROVIDE FOR BAND MEMBER/EMPLOYEE DEBT SET-OFFS

WHEREAS members and employees of the Sechelt Indian Band are in some instances indebted to the Band or the Sechelt Band Housing Authority;

AND WHEREAS the Council of the Band considers it to be in the best interests of the Band that such members and employees fulfill their financial obligations to the Band;

AND WHEREAS Part III of the Constitution of the Band and paragraphs 14(1)(a), (f), (r), (t) and (u) of the Sechelt Indian Band Self-Government Act authorize the Council of the Band to make laws in relation to:

- (a) access to and residence on Sechelt lands;
- (b) the administration and management of property belonging to the Band;
- (c) financial administration of the Band;
- (d) the creation of administrative bodies and agencies to assist in the administration of the affairs of the Band; and
- (e) matters relating to the good government of the Band or its members.

NOW THEREFORE the Council of the Sechelt Indian Band, in open meeting assembled, enacts as follows:

Short Title

1. This law may be cited for all purposes as the "DEBT SET-OFF LAW".

Definition Section:

2. In this law,

"Band" means the Sechelt Indian Band;

"Band entity" includes the Sechelt Indian Band, the Sechelt Indian Government District, the Sechelt Band Housing Authority and any other company, society or other entity located on Sechelt lands of which the Sechelt Indian Band holds a controlling interest;

"Band Member" means a member of the Sechelt Indian Band;

"Council" means the Council of the Sechelt Indian Band as duly constituted;

"Employee" includes:

- (a) a person entitled to Wages for work or services performed for a Band entity;
- (b) a person the Band entity allows, directly or indirectly, to perform work or services normally performed by an employee;
- (c) a person being trained by a Band entity for the purpose of that Band entity business;
- (d) a person not generally considered an employee who has entered into an independent contract for service to a Band entity.

"Sechelt lands" means "Sechelt lands" as defined in the Sechelt Indian Band Self-Government Act;

"Wages" includes salary, commissions, fees and any other money payable by a Band entity to an Employee for work or services performed.

Deductions in the Case of Band Members and Employees

1. Where a Band Member or an Employee is indebted to any Band entity, a deduction may be made from any monies payable to that Band Member or Employee by a Band entity for any reason whatsoever in an amount no greater than is necessary to satisfy the outstanding debt to the Band entity, provided that the deduction has been authorized pursuant to either section 3 or section 4 below.

Exemption in the Case of Employees Only

2. The following exemptions apply in the case of Wages only:

(a) subject to 2(b), 70% of the gross amount due to an Employee is exempt from deduction pursuant to this law;

(b) where the debt for which the deduction is made is owing to the Sechelt Band Housing Authority in respect of housing held by the Employee at the time of the deduction, 35% of the gross amount due to an Employee is exempt from deduction pursuant to this law.

Authorization

3. Band Members and Employees indebted to a Band entity will be given the opportunity to voluntarily authorize deductions from monies payable to them by a Band entity in an amount acceptable to the Band entity and the Employee.

4. In the event that a Band Member or Employee refuses to authorize deductions pursuant to section 3 of this law, and the indebtedness of the Band Member or Employee is deemed by the Council in its sole discretion to be a collection problem, the Council may authorize the deduction.

Notice

5. When an authorization is made pursuant to section 4 of this law, the Band will provide the Band Member or Employee with notice of the date and the amount of the deduction authorized at least seven days prior to the deduction being made.

Appeal

6. A Band Member or Employee provided with notice pursuant to section 5 that a deduction has been authorized pursuant to this law, may appeal the authorization, no later than three days from the date the notice is received, in writing to the Council.

7. The Council will make a decision with respect to the appeal prior to any deduction being made.

General

8. No Band entity shall dismiss or demote an Employee or terminate a contract for services solely by reason of a deduction made pursuant to this law.

9. If any portion of this law is found invalid by decision of a Court of competent jurisdiction, the invalid portion shall be severed without effect on the remainder of the law.

10. Parts and titles are inserted in this law for convenience only and are not to be construed as part of this law.

Consequential Amendments

11. Sechelt Indian Band Law No. 1996-05 is hereby repealed.

Read a first time this 27th day of January, 1998.

Read a second time this 27th day of January, 1998.

Read a third time this 27th day of January, 1998.

Reconsidered, finally passed and adopted by the Band Council and signed by the Chief this 03 day of February, 1998.

Chief Garry Gerschuk
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