



# Ione Band of Miwok Indians

Tribal Council

## IONE BAND OF MIWOK INDIANS

### TRIBAL COUNCIL RESOLUTION NO: 2020-04

**SUBJECT: RESOLUTION ADOPTING THE IONE BAND SECURED TRANSACTIONS STATUTE AS A LAW OF THE TRIBE**

**WHEREAS:** The Ione Band of Miwok Indians (the “Tribe”) is a federally recognized Indian tribe, listed in the Federal Register as the Ione Band of Miwok Indians of California, and organized pursuant to the Constitution of the of the Ione Band of Miwok Indians as adopted August 10, 2002 (the “Constitution”); and

**WHEREAS:** The Constitution, at Article V, Section 1, provides that the governing body of the Tribe is the Tribal Council; and

**WHEREAS:** The Constitution, at Article VII, Section 1, authorizes the Tribal Council to conduct and regulate business activities and to promulgate civil ordinances governing the conduct, affairs, and transactions of members of the Tribe, and to the extent permitted by federal law, governing the conduct, affairs, and transactions of non-members of the Tribe; and

**WHEREAS:** The Tribe seeks to acquire new Tribal trust lands, engage in tribal government gaming pursuant to the Indian Gaming Regulatory Act of 1988, and pursue other economic development activities; and

**WHEREAS:** The Tribe currently intends to finance the acquisition of new Tribal trust lands and, through the Ione Band Economic Development Authority (the “Authority”), intends to finance the development, construction, and operation of a gaming facility on such lands; and

**WHEREAS:** To establish the requisite legal framework for the Tribe to finance the acquisition of new Tribal trust lands, for the Authority to finance its development activities, and for the Tribe or its affiliates to finance other future economic development activities, the Tribal Council has reviewed and determined the need to adopt as tribal law a statute (the “Ione Band Secured Transactions Statute”) that provides secured parties the same rights with respect to collateral subject to the sovereign authority of the Tribe as would exist if all aspects of the security interest had been governed by the California Uniform Commercial Code.



# Ione Band of Miwok Indians

Tribal Council

**NOW THEREFORE BE IT RESOLVED THAT** the Tribal Council hereby adopts the Ione Band Secured Transactions Statute as a law of the Tribe.

## CERTIFICATION

We, the undersigned duly elected officials of the Ione Band of Miwok Indians, certify that the foregoing Ione Band Secured Transactions Statute was adopted by the Tribal Council on this 6<sup>th</sup> day of February, 2020, at which a quorum was present, by a vote of 5 for, 0 against, and 0 abstentions.

By:

Sara Dutschke Setshwaelo  
Tribal Chairperson

By:

Christine Hendricks  
Tribal Secretary

**IONE BAND OF MIWOK INDIANS  
SECURED TRANSACTIONS STATUTE**

**CHAPTER ONE  
INTRODUCTION**

**SECTION:**

**1.1 Authority.** This Statute is enacted by the Tribal Council of the Tribe pursuant to the Authority conferred upon the Tribal Council under Article VII, Section 1 of the Constitution of the Ione Band of Miwok Indians, as adopted on August 10, 2002.

**1.2 Purpose.** It is the purpose and policy of this Statute to recognize that under the laws of the Tribe, except as otherwise provided in this Statute, secured parties shall have the same rights with respect to collateral 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 California UCC, without regard to the choice of law principles set forth therein.

**1.3 Short Title.** Statute shall be known and cited as the Ione Band Secured Transactions Statute.

**CHAPTER TWO  
DEFINITIONS**

**SECTION:**

**2.1 Definitions.** In this Statute, the terms listed below shall have the following meanings:

- (a) "*California UCC*" means the Uniform Commercial Code as adopted by the State of California at California Commercial Code ("CCC"), Section 1101 et seq., or as enacted in the statutes and laws of the State of California as amended from time to time in accordance with the laws of California.
- (b) "*Collateral*" means any property subject to a security interest, and any other property that satisfies the definition in CCC Section 9102(a)(12), including, but not limited to, Pledged Revenues.
- (c) "*Pledged Revenues*" means all of a Tribal Party's money, earnings, income and revenues (and any proceeds thereof), and all of the Tribal Party's rights to and interest with respect to receiving the foregoing before actual possession thereof, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest to a secured party in a writing signed by the Tribal Party.

- (d) “*Security Interest*” means an interest in personal property or fixtures which secures payment or performance of an obligation, and any other interest that satisfies the definition in CCC Section 1203(b)(35).
- (e) “*Tribal Party*” means the Tribe and any division, subdivision, branch, department, board, committee, commission, agency, authority, enterprise, instrumentality, component or entity wholly-owned or wholly-controlled, directly or indirectly, by the Tribe, along with the successors and assigns of each.
- (f) “*Tribal Lands*” means all lands within any reservation of the Tribe and all lands 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.
- (g) “*Tribe*” means the Ione Band of Miwok Indians, a federally recognized Indian tribe listed in the Federal Register as the Ione Band of Miwok Indians of California.

Any undefined terms that are defined in the California UCC are used in this Statute with the meanings that apply in the California UCC.

### **CHAPTER THREE SCOPE**

#### **SECTION:**

**3.1 Scope of Statute.** This Statute shall apply to all transactions, regardless of their form, that relate to property subject to the sovereign authority of the Tribe or any other Tribal Party to the same extent provided in CCC Section 9109, except that CCC Section 9109(c) and CCC Section 9109(d)(17) shall be ineffective to limit the application of the California UCC under this Statute.

**3.2 Intent of Statute.** This Statute is intended to be a law, within the meaning of CCC Section 9307(c), which generally requires information concerning the existence of a non-possessory security interest to be made generally 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.

### **CHAPTER FOUR APPLICABLE LAW**

#### **SECTION:**

**4.1 Law to be Applied.** With respect to any security interest to which this Statute applies, except as provided elsewhere in this Chapter 4, the rights and obligations of any person shall be governed as if the California UCC applied fully thereto, including those rights and obligations related to enforcement of a security interest or arising after default.

**4.2 Rules for Perfection and Priority of Security Interests.** The perfection, effect of perfection or nonperfection and priority of any security interest to which this Statute applies shall be determined as if the California UCC applied fully thereto and as if each Tribal Party that is a debtor were (for purposes of CCC § 9301 through CCC § 9342) located in the State of California and as if the Tribal Lands were located in the State of California.

**4.3 Granting Security Interests in Pledged Revenues.** Notwithstanding any provision of the California UCC or this Statute to the contrary, including Section 4.2 of this Statute, a security interest granted by a Tribal Party in Pledged Revenues shall be created and attach upon the giving of value and the granting of such security interest in a record authenticated by that Tribal Party. Such security interest may be perfected only by the filing of a financing statement with respect to which a Tribal Party is the Debtor in the same manner and in the same location as if all of such Pledged Revenues were accounts.

**4.4 Filing Financing Statement.** With respect to any security interest to which this Statute applies, the proper office for filing a financing statement with respect to which a Tribal Party is the Debtor shall be the office specified by the California UCC and the laws of the State of California as if such Tribal Party were located in the State of California. For the avoidance of doubt, no financing statement is required to be filed with the Tribe or any office thereof.

## CHAPTER FIVE SOVEREIGN IMMUNITY

### SECTION:

**5.1 No Waiver of Sovereign Immunity.** Nothing in this Statute shall be interpreted to provide a waiver of the sovereign immunity of the Tribe or any other Tribal Party, or any of their officers, employees or agents acting within the scope of their authority.

## CHAPTER SIX MISCELLANEOUS

### SECTION:

**6.1 Amendment.** Once applicable to any security interest, this Statute 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 Statute may be amended with the prior written consent of each secured party, or absent such consent, with prior notice to each secured party and only to the extent such amendment is not materially adverse to any secured party with respect to any security interest.

**6.2 Prior Statutes.** Any prior tribal secured transactions statute or law is hereby repealed in its entirety, provided however, that any security interest created thereunder shall continue to be effective in accordance with its terms as a security interest under this Statute.

**6.3 Conflicting Statutes.** To the extent any provision of any law, Statute, resolution, motion or any other action of any tribal party heretofore taken is in conflict with any provisions of this Statute, the provision of this Statute shall supersede and the conflicting provision shall be and hereby is repealed.

**6.4 Effective Date.** This Statute is effective upon the date of its enactment.

### CERTIFICATION

We, the undersigned duly elected officials of the Ione Band of Miwok Indians, certify that the foregoing Ione Band Secured Transactions Statute was adopted by the Tribal Council pursuant to Resolution No. 2020-04 on this 6<sup>th</sup> day of February, 2020 at which a quorum was present, by a vote of 5 for, 0 against, and 0 abstentions.

By:   
Sara Dutschke Setshwaelo  
Tribal Chairperson

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