

# TITLE XIX. ABANDONED PROPERTY CODE

## CHAPTER 1. DEFINITIONS

### Sec. 101. Scope

The definitions in this Chapter shall apply to all actions under this Title.

### Sec. 102. Definitions

(a) "**Abandoned Funds**" means unclaimed cash or cash equivalents, including securities, outstanding checks, unredeemed gift certificates and customer deposits, and excluding chips and tokens, and racebook, keno and slot tickets.

(b) "**Abandoned Per Capita Payment**" means Abandoned Funds originally distributed as a per capita payment as that term is defined by the Tribe's Gaming Revenue Allocation Plan

(c) "**Apparent Owner**" means the person whose name appears on the records of the Holder as the person entitled to the funds held by the Holder, or his or her legal representative.

(d) "**Holder**" means the Chitimacha Tribe of Louisiana and any governmental agencies thereof, or any tribal enterprises or other tribal political subdivisions, including all tribal businesses such as the Chitimacha Gaming Enterprise ("Gaming Enterprise"), as the case may be, in possession of Tangible Property or "Abandoned Funds" that are subject to this law and belong to another.

(e) "**Gaming Enterprise Site**" means the building or buildings in which the Cypress Bayou Casino Hotel is situated, and all parking areas and access roads appurtenant thereto and located on the Chitimacha Reservation.

(f) "**Gaming Revenue Allocation Plan**" means the document providing for the distributing of net gaming revenues that the Tribe submitted and the United States Secretary of the Interior approved pursuant to the Indian Gaming Regulatory Act of 1988 and any amendments.

(g) "**Person**" means any individual, business association, corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity whether such person is acting in his or her own right or in a representative capacity.

(h) "**Property**" means anything of the value of one hundred dollars (\$100) or more, including items or articles of clothing, jewelry, sports equipment, cellular telephones, electronic devices, computers, and manufactured homes and trailers, but excludes Abandoned Funds.

(i) "**Security Department**" within the Gaming Enterprise Site means the Lost and Found Office; outside the Gaming Enterprise Site means the Security Desk in the building, the Chitimacha Police Department, or other authority established by the Chitimacha Tribe of Louisiana.

(j) "**Tangible Property**" means Property irrespective of its value.

(Revised by Ordinance #06-18; Adopted: April 19, 2018; Effective: April 19, 2018)

## **CHAPTER 2. ABANDONED PROPERTY**

### **Sec. 201. On the Gaming Enterprise Site**

Tangible Property found or located on the Gaming Enterprise Site shall be handled pursuant to the Lost and Found Property Policies and Procedures of the Gaming Enterprise and, unless provided otherwise in such policies and procedures, shall be delivered to the Security Department or a designee on behalf of the Chitimacha Tribe of Louisiana prior to vacating the premises.

### **Sec. 202. On the Chitimacha Reservation**

(a) **Duty of Finder.** Tangible Property found or located on the Chitimacha Reservation and outside of the Gaming Enterprise Site shall be handled pursuant to the Lost and Found Property policies and procedures of the Chitimacha Tribe of Louisiana, and shall be delivered to the Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana prior to vacating the premises. At the time of delivery, the following information shall be obtained:

- (1) the date, time and place of the finding;
- (2) the name, address, and telephone number of the finder of the Tangible Property or, if an employee, the employee's identification number and office number; and
- (3) a description and relative value of the Tangible Property.

(b) **Notice of Means of Recovery of Property.** The Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana shall provide its community a general notice indicating the time, place, and manner that lost or abandoned Tangible Property may be recovered, but it is not required to advertise a description of any Tangible Property it receives. The Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana shall retain custody of the Tangible Property for three (3) months from the date of receipt thereof, unless it is claimed by the owner within the three (3)-month period. After the three (3) month period expires, the Chitimacha Police Department or its designee shall assess the Tangible Property's fair market value. If it is determined that the Tangible Property delivered is not Property as defined in Chapter 1, the Chitimacha Police Department or its designee may dispose of the Tangible Property in its discretion. Unclaimed Property shall be disposed of in accordance with Section 203.

(c) **Abandoned Structures.** If the Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana reasonably believes that homes, including but not limited to manufactured homes, mobile homes, or any other structure found or located on the Chitimacha Reservation abandoned, before a presumption of abandonment is to take effect, the Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana shall give notice to the owner, if known, of the Tangible Property thereof by affixing a notice on the subject Tangible Property and by first class United States Mail to the last-known address of the person whose name appears as owner of the Tangible Property, advising that evidence of the owner's interest in the Tangible Property shall be indicated or it will become property of the Chitimacha Tribe of Louisiana. If no response by a person with a valid ownership in the Tangible Property is received by the Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana within three (3) months after the mailing of notice, unless it is claimed by the owner within the three (3)-month period, the Tangible Property shall be presumed to be abandoned. After the Tangible Property is presumed abandoned, the Chitimacha Police Department or a designee shall assess its fair market value. If it is determined that the Tangible Property delivered is not Property as defined in Chapter 1, the Chitimacha Police Department or its designee may dispose of the Tangible Property in its discretion. Unclaimed Property shall be disposed of in accordance with Section 203.

(d) **Restoration to Owner if Claimed.** If the owner of the Tangible Property subject to the notice provided under Section 202(b) claims it within the three (3)-month period, the Tangible Property shall be restored to the owner upon payment or deduction of all proper fees, if any, including a fee reasonably calculated to offset the expense of safeguarding the property and administering the claim.

(Revised by Ordinance #06-18; Adopted: April 19, 2018; Effective: April 19, 2018)

**Sec. 203.                    Procedure if Unclaimed**

(a) If the owner fails to claim the Tangible Property within the three (3)-month period, the Tangible Property or the proceeds from the sale or other disposition thereof shall become the property of the Chitimacha Tribe of Louisiana.

(b) Unclaimed Tangible Property at the Gaming Enterprise Site shall be disposed of pursuant to the Gaming Enterprise's Lost and Found Property Policy and Procedures.

(c) Unclaimed Property elsewhere on the Chitimacha Reservation may be disposed of by the Security Department, Chitimacha Police Department or a designee on behalf of the Chitimacha Tribe of Louisiana through sale or other proper means of disposition, provided that a notice of such sale or other means of disposition to the Tribal community shall be posted and that such notice shall include:

- (1) the date and time of the sale;
- (2) a list and description of all Property to be disposed of;
- (3) a statement that all Property to be sold or otherwise disposed of has been abandoned on the Chitimacha Reservation for at least three (3) months and has remained unclaimed by any owner;
- (4) a statement that the proceeds from the sale or other means of disposition will be deposited into the Chitimacha Tribal General Fund.

(d) The net proceeds from the disposition of the unclaimed Property shall be deposited into the Chitimacha Tribal General Fund.

(Revised by Ordinance #06-18; Adopted: April 19, 2018; Effective: April 19, 2018)

## CHAPTER 3. ESCHEAT OF ABANDONED FUNDS

### Sec. 301. Presumption of Abandonment

(a) Funds held by the Chitimacha Tribe of Louisiana or the Gaming Enterprise in or for any account are presumed to be abandoned if the account has been inactive for more than one (1) year, unless the owner has made a claim to or otherwise indicated an interest in the funds. The length of time the funds have been held as of the effective date of this law shall be included in determining the one (1) year period.

(b) **De Minimis Exception.** Any account presumed abandoned or one which has become inactive for more than one (1) year which has an amount equal to or one hundred dollars (\$100) or less shall be considered de minimis and will be exempted from the requirements of this law.

(Revised by Ordinance #06-18; Adopted: April 19, 2018; Effective: April 19, 2018)

### Sec. 302. Duties of Holder of Abandoned Funds

(a) Within six (6) months before a presumption of abandonment is to take effect with respect to any funds, the Holder shall give notice to the Apparent Owner thereof by first class United States Mail directed to the Apparent Owner's last-known address, advising that evidence of the Apparent Owner's interest in the funds shall be indicated or the funds will become property of the Chitimacha Tribe. If the Apparent Owner of Abandoned Funds is an active employee of the Chitimacha Tribe of Louisiana or Gaming Enterprise, the Holder may attach written notice to such employee's current pay stub in lieu of first class mail. The Holder shall maintain adequate record of all notices given to Apparent Owner evidencing compliance with this Section.

(b) Once a presumption of abandonment has taken effect, the Holder shall provide the Chitimacha Tribal Council or a designee on behalf of the Chitimacha Tribe of Louisiana with a report indicating the status of the funds held and the status of the inactive account. A copy of this report shall be provided to the Chitimacha Tribal Council or a designee on behalf of the Chitimacha Tribe of Louisiana. Each report shall include:

- (1) the name, if known, of each person appearing to be the owner of the funds;  
the dollar amount of the funds;
- (2) the nature, description and identifying number of the account in which the funds were held;

- (3) the date of the last transaction with the owner with respect to the funds; and
- (4) any other information as the Chitimacha Tribal Council may require.

(c) Together with the report to the Chitimacha Tribal Council, the Holder shall deliver funds that are presumed to be abandoned to the Chitimacha Tribal Council or a designee on behalf of the Chitimacha Tribe of Louisiana.

(d) The Chitimacha Tribal Council or a designee on behalf of the Chitimacha Tribe of Louisiana shall keep a record of all submitted reports and deposited funds for at least ten (10) years after the date that the relevant funds were deposited.

**Sec. 303. Disposition of Funds Received by Chitimacha Tribal Council or Designee**

Funds subject to the provisions of this Chapter shall be deposited into the Chitimacha Tribal General Fund, except that an Abandoned Per Capita Payment shall remain in the account the Tribe dedicates to per capita payments until final disposition under this Chapter, at which time the value of the adjudicated Abandoned Per Capita Payment may be distributed in accordance with the Tribe's Gaming Revenue Allocation Plan.

**Sec. 304. Claims for Abandoned Funds**

(a) Any person claiming an interest in funds subject to the provisions of this Chapter may claim such funds within one (1) year from the date such funds were delivered to the Chitimacha Tribal Council. That person shall file a written claim with the Chitimacha Tribal Council or a designee on behalf of the Chitimacha Tribe of Louisiana, setting forth the facts upon which that person claims to be entitled to recover the funds. The Chitimacha Tribal Council may prescribe the form that the written claim shall take.

(b) The Chitimacha Tribal Council or its designee shall consider each claim within ninety (90) days after it is filed. The Chitimacha Tribal Council may hold hearings on any claim. The Chitimacha Tribal Council shall deliver a decision in writing on each claim heard, with a finding of fact and a statement of the reasons for the decision.

(c) The Chitimacha Tribal Council shall pay each claim allowed without deduction for costs and without interest, except that a claimant may be assessed a fee reasonably calculated to offset the expense of safeguarding the Abandoned Funds and administering the claim.

(d) The procedures of this Section shall be the exclusive remedy available to any person claiming an interest in funds that were delivered to the Chitimacha Tribal Council under the provisions of this Chapter.

(e) All Abandoned Funds remaining unclaimed one (1) year after the date of the report to the Chitimacha Tribal Council is filed, as set forth under Section 302(b) of this Chapter, shall become the property of the Chitimacha Tribe of Louisiana and no longer eligible for claim of recovery under this Section.

(Added by Ordinance # 07-10; Adopted: December 2, 2010; Effective: December 2, 2010; Revised by Ordinance #06-18; Adopted: April 19, 2018; Effective: April 19, 2018)