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CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: OCT 29 2020

ORDINANCE NO. 298 (2020)

*An ordinance to correct two internal Cherokee Code references
in C.C. § 25-10 regarding property that is exempt from collection by creditors.*

WHEREAS, the Eastern Band of Cherokee Indians has the sovereign authority to make laws for the general governance of the Tribe and this authority is expressed in § 23 of the Charter and Governing Document and in C.C. § 117-10; and

WHEREAS, the Tribe has expressed in C.C. § 25-10(c) that the debtor's interest in or right to receive certain property is exempt from collection by judgment creditors; and

WHEREAS, C.C. § 25-10(c)(7) contains an incorrect citation that needs to be corrected, and § 25-10(b) contains an incomplete citation that needs to be corrected.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present, that C.C. § 25-10 governing property exemptions shall be amended to read as follows:

Sec. 25-10. - Property exemptions.

(a) *[Subsection (a) is unchanged]*

(b) No property of a judgment debtor shall be seized except pursuant to a valid Order of Execution entered by the court pursuant to section C.C. § 25-8.

(c) The debtor's interest in or right to receive the following property is exempt:

(1) *Homestead and real property.* The designated place of residence by the family. This homestead exemption does not apply in the case of a judgment creditor who holds a valid security interest in the judgment debtor's home or residential lease, through a mortgage, deed of trust, or other written agreement securing a loan. All other real property in which the debtor owns a possessory interest in is also entitled to a full exemption from any collection process. The homestead and real property exemption is automatic and no filing of any documents shall be necessary to preserve it.

(2) *Consumer goods.* Household goods and furnishings, wearing apparel, keepsakes, jewelry and other articles of personal adornment, appliances, books, musical instruments, firearms, sporting goods, animals or other tangible personal property held primarily for the personal, family or household use of the debtor or a dependent of the debtor, not to exceed \$5,000.00 in aggregate value.

(3) *Business property.* Equipment, inventory, and professional books used in the business of the debtor or the business of a dependent of the debtor, not to exceed \$5,000.00 in aggregate value.

- 1 (4) *Child support, family support or maintenance payments.* Alimony, child support, family
2 support, maintenance or separate maintenance payments to the extent reasonably
3 necessary for the support of the debtor and the debtor's dependents.
4 (5) *Motor vehicle.* One motor vehicle not to exceed \$2,000.00 in equity value. As such, if the
5 fair market value of the vehicle less any liens on the vehicle is less than \$2,000.00 then
6 the vehicle is exempt.
7 (6) *Provisions for burial.* Cemetery lots, above ground burial facilities, burial monuments,
8 tombstones, coffins or other articles for the burial of the dead owned by the debtor and
9 intended for the burial of the debtor or the debtor's family.
10 (7) *Per capita distributions.* Per capita distributions of net gaming revenues from gaming
11 enterprises of the Eastern Band of Cherokee shall be completely exempt from any
12 garnishment or execution, except as set forth in ~~the section 16-23 C.C. § 16C-5(d) of the~~
13 ~~Cherokee Code.~~ This per capita distribution exemption is automatic and no filing of any
14 documents shall be necessary to preserve it.
15 (8) *Bonuses and casino winnings.* Bonuses and casino winnings shall be exempt.
16 (d) [*Subsection (d) is unchanged*]

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19 BE IT FINALLY ORDAINED that this ordinance shall be effective upon ratification by the
20 Principal Chief and all prior ordinances or portions thereof that are inconsistent
21 with this ordinance are rescinded.
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24 *Submitted by the Office of the Attorney General*