

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 722**

Introduced by Kolowski, 31.

Read first time January 08, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to civil procedure; to amend section 25-1504,  
2 Reissue Revised Statutes of Nebraska; to adopt the  
3 Recognition and Enforcement of Tribal Court Civil  
4 Judgments Act; to harmonize provisions; and to repeal the  
5 original section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 8 of this act shall be known and  
2 may be cited as the Recognition and Enforcement of Tribal Court Civil  
3 Judgments Act.

4           Sec. 2. For purposes of the Recognition and Enforcement  
5 of Tribal Court Civil Judgments Act:

6           (1) Tribal court means any court of an Indian tribe, as  
7 defined in section 43-1503; and

8           (2) Tribal judgment means a written, civil judgment,  
9 order, or decree of a tribal court of record duly authenticated in  
10 accordance with the laws and procedures of the tribe or tribal court  
11 of record and in accordance with the act. For purposes of this  
12 subdivision, a tribal court of record is considered a court of record  
13 if the court maintains a permanent record of the tribal court's  
14 proceedings, maintains either a transcript or electronic record of  
15 the tribal court's proceedings, and provides that a final judgment of  
16 a tribal court is reviewable on appeal.

17           Sec. 3. (1) A copy of any tribal judgment may be filed in  
18 the office of the clerk of any court in this state having  
19 jurisdiction of such action.

20           (2) The person filing the tribal judgment shall make and  
21 file with the clerk of the court an affidavit setting forth the name  
22 and last-known address of the party seeking enforcement and the  
23 responding party. Upon the filing of the tribal judgment and  
24 accompanying affidavit, the enforcing party shall serve upon the  
25 responding party, in the manner for service of a summons under

1 section 25-505.01, a notice of filing of the tribal judgment together  
2 with a copy of the tribal judgment. The enforcing party shall file  
3 proof of service or mailing with the clerk of the court. The notice  
4 of filing shall include the name and address of the enforcing party  
5 and the enforcing party's attorney, if any, and shall include the  
6 text contained in sections 4 and 5 of this act.

7 (3) The filing of a tribal judgment does not create a  
8 lien upon any real estate until such time as all challenges, if any,  
9 to the recognition and enforcement of the tribal judgment are  
10 concluded pursuant to sections 4 and 5 of this act. Upon a final and  
11 conclusive determination of enforceability of the tribal judgment,  
12 the judgment shall constitute a lien upon real estate as provided in  
13 section 25-1504.

14 (4) For filing a tribal judgment under the Recognition  
15 and Enforcement of Tribal Court Civil Judgments Act, the clerk of the  
16 court shall collect the fee for filing a transcript of judgment as  
17 provided in subsection (1) of section 33-106 or section 33-123.

18 Sec. 4. Any objection to the enforcement of a tribal  
19 judgment shall be filed within thirty days after service of the  
20 notice of filing the tribal judgment. If an objection is filed within  
21 such time period, the court shall set a time period for a formal  
22 response to the objection and may set the matter for hearing.

23 Sec. 5. (1) Unless objected to pursuant to section 4 of  
24 this act, a tribal judgment shall be recognized and enforced by the  
25 courts of this state to the same extent and with the same effect as

1 any judgment, order, or decree of a court of this state.

2 (2) If no objections are timely filed, the clerk shall  
3 issue a certification that no objections were timely filed and the  
4 tribal judgment shall be enforceable in the same manner as if issued  
5 by a valid court of this state.

6 (3) A tribal judgment shall not be recognized and  
7 enforced if the objecting party demonstrates by a preponderance of  
8 the evidence at least one of the following:

9 (a) The tribal court did not have personal or subject  
10 matter jurisdiction; or

11 (b) A party was not afforded due process.

12 (4) The court may decline to recognize and enforce a  
13 tribal judgment on equitable grounds for any of the following  
14 reasons:

15 (a) The tribal judgment was obtained by extrinsic fraud;

16 (b) The tribal judgment conflicts with another filed  
17 judgment that is entitled to recognition in this state;

18 (c) The tribal judgment is inconsistent with the parties'  
19 contractual choice of forum provided the contractual choice of forum  
20 issue was timely raised in the tribal court;

21 (d) The tribal court does not recognize and enforce  
22 judgments of the courts of this state under standards similar to  
23 those provided in the Recognition and Enforcement of Tribal Court  
24 Civil Judgments Act; or

25 (e) The cause of action or defense upon which the tribal

1 judgment is based is repugnant to the fundamental public policy of  
2 the United States or this state.

3           Sec. 6. (1) If the objecting party demonstrates to the  
4 court that an appeal from the tribal judgment is pending or will be  
5 taken or that a stay of execution has been granted, the court may  
6 stay enforcement of the tribal judgment until the appeal is  
7 concluded, the time for appeal expires, or the stay of execution  
8 expires or is vacated.

9           (2) If a party appeals a court's ruling on the  
10 recognition and enforcement of a tribal judgment, the court, upon  
11 application of the opposing party, shall require the same security  
12 for satisfaction of the judgment which is required in this state.

13           Sec. 7. The district court, after notice to the parties,  
14 may attempt to resolve any issues raised regarding a tribal judgment  
15 pursuant to section 5 of this act, by contacting the tribal court  
16 judge who issued the judgment.

17           Sec. 8. The Recognition and Enforcement of Tribal Court  
18 Civil Judgments Act shall govern the procedures for the recognition  
19 and enforcement by the courts of this state of a civil judgment,  
20 order, or decree issued by a tribal court emanating from a cause of  
21 action that accrued on or after January 1, 2015. The date that a  
22 cause of action accrues shall be determined under the appropriate  
23 laws of this state. The act does not impair the right of a party to  
24 seek enforcement under any other existing laws or procedures.

25           Sec. 9. Section 25-1504, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           25-1504 The lands and tenements of the debtor within the  
3 county where the judgment is entered, shall be bound for the  
4 satisfaction thereof only from the day on which such judgments are  
5 rendered. All other lands, as well as goods and chattels of the  
6 debtor, shall be bound from the time they shall be seized in  
7 execution. A judgment lien under the Recognition and Enforcement of  
8 Tribal Court Civil Judgments Act shall not attach until proceedings  
9 to challenge such judgment authorized by such act are concluded and  
10 the court finds that the judgment is entitled to recognition. A ÷  
11 ~~Provided, that a~~ judgment shall be considered as rendered when such  
12 judgment has been entered on the judgment record.

13           Sec. 10. Original section 25-1504, Reissue Revised  
14 Statutes of Nebraska, is repealed.