

Chapter 15.6

**MINORS AND PROTECTED PERSON'S TRUSTS AND INTERNAL SRPMIC PER CAPITA
PROCESSES***

- Sec. 15.6-1. Trust protection for minor and incompetent beneficiaries receiving IGRA benefits; applicable law; jurisdiction.
- Sec. 15.6-2. Disclaimer.

***Cross reference**—Gaming, ch. 15.5.

Sec. 15.6-1. Trust protection for minor and incompetent beneficiaries receiving IGRA benefits; applicable law; jurisdiction.

(a) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, the income and principal of a trust created for a minor beneficiary or incompetent beneficiary who is entitled to receive a distribution under the Act shall not be transferred by such beneficiary and shall not be subject to enforcement of a money judgment until paid from such trust to the beneficiary in accordance with the terms of the trust.

(b) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, if a trust created for a minor beneficiary or an incompetent beneficiary to receive and hold such beneficiary's distribution under the act provides that the trustee may pay income or principal, or both, for the health, education, and welfare of such beneficiary, as the trustee deems advisable in the discretion of the trustee, the income and principal necessary to accomplish such objectives shall not be transferred and shall not be subject to the enforcement of a money judgment until it is paid from the trust to such beneficiary in accordance with the terms of such trust.

(c) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, any money or other property held in a trust for a minor beneficiary or an incompetent beneficiary which represents a distribution under the Act to or for the benefit of such beneficiary, shall be exempt from execution, attachment, or sale on any process issued from any court.

(d) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, no action of any kind, including without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, shall be brought at law or in equity for an attachment or other provisional remedy against property held in a trust for the benefit of a minor

beneficiary or incompetent beneficiary for avoidance of such trust unless such action shall be brought in the Community court. The Community court shall have exclusive jurisdiction over any action brought with respect to a trust created for a minor beneficiary or incompetent beneficiary.

(e) Notwithstanding any other provision contained in this section, paragraphs (a), (b), (c), and (d) of this section shall not apply in any respect:

- (1) To the Community to whom the beneficiary is indebted by order of the Community court relating to payment of any indebtedness owed by the beneficiary to the Community.
- (2) To any person to whom the beneficiary is indebted by order of the Community court for the payment of support or spousal maintenance in favor of such beneficiary's spouse, former spouse or children.
- (3) To any person for restitution for which a beneficiary is obligated by order of the Community court for damages caused by criminal acts or juvenile offenses of which the beneficiary has been convicted or adjudicated.
- (4) To any person or entity whose claim against the Community is not disputed by the Community or which has been established by adjudication against the Community in a federal, state or tribal court of competent jurisdiction during any period that the Community is unable to pay its debts as they come due, or is subject to a pending insolvency or bankruptcy proceeding.

(f) A provision contained in a trust instrument created for the benefit of a minor beneficiary or incompetent beneficiary which states that the laws of the Community shall exclusively govern the validity, construction, and administration of the trust created under such trust instrument, and that such trust is subject to the exclusive jurisdiction of the Community court, shall be valid, effective, and conclusive for the trust if (i) the Community is serving as a trustee or a

co-trustee of such trust, (ii) the trust assets of such trust were deposited by the Community in such trust pursuant to the Act, and (iii) part or all of the administration occurs in the Community, including, but not limited to, physically maintaining trust records within the Community.

(g) Notwithstanding any other provision in this section or in any trust created under the act, a person who intentionally kills, or who participates, either as a principal or an accessory before the fact, in the intentional killing of a minor or incompetent beneficiary ("beneficiary") shall be deemed to have predeceased the beneficiary and shall not be entitled to receive income or principal held in a trust created for the deceased beneficiary under the act.

- (1) The Community trustee shall have the exclusive authority to determine by a preponderance of evidence whether the killing was intentional for purposes of this subsection.
- (2) For purposes of this subsection, the terms "intentionally kills" and "intentional killing" shall mean to knowingly or recklessly cause the death of a minor or incompetent beneficiary, and may include acting with knowledge that the person's conduct will cause serious physical injury or death, or acting with a reckless indifference to human life.
- (3) This subsection shall be construed with the intent of the Community that no person shall be allowed to benefit or profit by his or her own wrongful act, and shall be effective as of November 15, 2001.

(Ord. No. SRO-578-2024, 6-5-2024)

Sec. 15.6-2. Disclaimer.

If by any means a per capita IGRA payment under the Act is payable to a member, that member may disclaim that interest in whole or in part by delivering or filing a written disclaimer with the Community under this section.

- (1) The disclaimer must be filed not later than the record date for the payment

being disclaimed or for the first payment being disclaimed if more than one payment is being disclaimed. The term "record date" is defined in the Revenue Allocation Plan For Net Gaming Proceeds adopted by the Salt River Pima-Maricopa Indian Community.

- (2) The disclaimer shall describe the property or interest disclaimed, declare the disclaimer and its extent, and be signed by the disclaimant.
- (3) The right to disclaim property or interest in property under this section shall be barred by an acceptance of the property or interest in the property by the disclaimant prior to execution and filing of the disclaimer.
- (4) Property disclaimed pursuant to this section shall pass to and vest in the remaining enrolled members eligible to receive (or have a trust for their benefit receive) their pro rata share of that IGRA payment.
- (5) The disclaimer shall be binding on the disclaimant and on all persons claiming through or under the disclaimant.

(Ord. No. SRO-578-2024, 6-5-2024)