

CHAPTER 25  
REPOSSESSION OF PROPERTY

25-1 PERSONAL PROPERTY OF INDIANS

25-1.01 The Kootenai Tribe of Idaho possesses exclusive jurisdiction over the repossession of any personal property located within the exterior boundaries of the Kootenai Indian Reservation held by or belonging to a Kootenai Tribal member or any other Indian, who resides on the Reservation. Such Indian's personal property shall not be taken from such lands except in compliance with the procedures set forth in Chapter 6 or, if appropriate, Chapter 7, of the Law and Order Code of the Tribe.

25-2 REPOSSESSION OF INDIAN PERSONAL PROPERTY

25-2.01 Prior to the initiation of any proceeding for repossession of the personal property subject to this ordinance, a creditor shall contact an Indian debtor orally or in writing concerning a dispute with such debtor that may lead to repossession of personal property located within the exterior boundaries of the Kootenai Reservation. Such Indian debtor may give written consent to the creditor, permitting a repossession of the personal property without formal court proceedings. A creditor may enter the Reservation for the purpose of repossessing personal property with the debtors written consent only when accompanied by the debtor or a Tribal Law Enforcement Officer.

25-3 COURT ORDER IN ABSENCE OF WRITTEN CONSENT BY INDIAN DEBTOR

25-3.01 If an Indian debtor refuses to sign a written consent allowing repossession, the property may be removed by the creditor from the Reservation only by order of a Judge of the Kootenai Tribal court entered in accordance with the procedures set forth under tribal law.

25-4 PROCEDURE TO OBTAIN COURT ORDER FOR REPOSSESSION

A creditor may seek an order of repossession against an Indian debtor in accordance with the following procedures:

25-4.01 Complaint by Creditor. The creditor shall file a complaint with the Clerk of the Kootenai Tribal Court in compliance with Chapter 6, accompanied by a verified copy of the contract or other document entitling the creditor to repossess the personal property of the Indian debtor. The petition shall be served upon the Indian debtor in the manner prescribed by Code.

25-4.02 Answer by Debtor. The Indian Debtor shall file with the Clerk of the Court a written answer or response to the creditor's petition and shall file an answer as required by Section 6-3.01 of the Code or be subject to a default judgment as set forth in Section 6-10.01.

25-4.03 Hearing on Complaint. After an answer is filed, or upon the failure of the debtor to answer, a hearing date shall be set by the Court and a hearing held on the petition for repossession. Both the creditor and debtor may present evidence and witnesses relevant to the contract or dispute which forms a basis for the repossession request. The Court may for good cause shown advance the time lines set forth in the Code, provided the following exists:

(1) The petition contains a verified allegation showing reasonable cause to believe that the personal property involved may be lost, damaged, or removed from the Reservation prior to the regularly scheduled hearing; and

(2) An accelerated hearing can be held, without substantially prejudicing the Indian debtor, to present any good faith defense to the petition for repossession.

(3) Content of Court Order. If after a hearing the court determines that repossession is justified, the Court shall issue an order authorizing the creditor to repossess the personal property involved in the proceeding. The Court shall direct a Tribal Law Enforcement Officer to accompany the creditor to repossess the property. If the Indian debtor has failed to appear at the hearing despite reasonable notice, the Court shall enter the repossession order as a default judgment, provided the debtor may petition pursuant to Section 6-10 for a new trial.

**25-5 REPOSSESSION BASED ON A FOREIGN JUDGMENT**

25-5.01 If a creditor is attempting to repossess an item of personal property pursuant to a judgment from any other jurisdiction, he or she must comply with the provisions of Chapter 7 of the Kootenai Law and Order Code, provided a proceeding under that Chapter may not be initiated until an effort of the creditor is made to obtain a voluntary relinquishment of the property pursuant to Section 25-2 of this Ordinance.

**25-6 REMEDIES FOR VIOLATION OF THESE RULES**

25-6.01 (1) Exclusion from Reservation. Any non-member of the Kootenai Tribe of Idaho, except persons authorized by federal law to be present on the Kootenai Reservation, may be excluded from the Reservation in accordance with procedures set forth in Chapter 12 of the Law and Order Code of the Kootenai Tribe of Idaho, if such non-member is found to be in deliberate or willful violation of this ordinance.

(2) Denial of Business Privileges. Any creditor and any agents or employees of any creditor who are found by the Tribal Court to be in deliberate and willful violation of this ordinance may be denied the privilege of doing business within the Kootenai Reservation. The Court shall afford any creditor fair notice and opportunity for hearing prior to denial of any business privileges on the Reservation.

(3) Civil Damage Liability. Any person who violates this ordinance shall be deemed to have breached the peace of the Kootenai Indian Reservation and shall be civilly liable to the Tribe or any debtor for actual damages caused by the deliberate or negligent failure to comply with the provisions of this Ordinance.