

THREE AFFILIATED TRIBES

USURY PROVISION

TAT CODE OF LAWS

CHAPTER 21, SECTION 7(e)

SUMMARY: This Amendment to TAT Code of Laws Chapter 21, Section 7(e) amends the Tribe's Usury provision to exempt loans made by the Three Affiliated Tribes from any usury provision contained within the code. Usury refers to the interest charged in any loan.

First Read: March 22, 2010 (TBC)

Second Read: May 20, 2010 (TBC)

Public Comment Period _____ to _____(30 days)

Final Read: _____

Approved as Amended: _____ (Reso. XX-XXX)

SECTION 7(e)
OF CHAPTER 21
OF THE CODES OF LAWS
OF THE THREE AFFILIATED TRIBES

Usury defined; maximum interest rate; prohibition. No person, partnership, limited partnership, trust, association, corporation, or other form of business entity, either directly or indirectly, shall take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than five and one-half percent per annum higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months for the six months immediately prior to the month in which the transaction occurs. No contract shall provide for the payment of interest on interest overdue, but this section shall not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section shall be deemed usury. Further, without regard to the interest rate limit set forth herein, banks may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national, Tribal, or State banking associations or by federal, Tribal, or State savings and loan associations chartered by the United States, by the Three Affiliated Tribes, or by the State of North Dakota.

The provisions of this Section 7(e) do not apply to the loan made from the Shakopee Mdewakanton Sioux Community to the Three Affiliated Tribes of the Fort Berthold Reservation in the amount of \$30,000,000 and the documents entered into in connection therewith, including the Loan Agreement, Depository Agreement, the Note, and other collateral documents.

The provisions of this Section 7(e) do not apply to Indebtedness incurred by (i) the Three Affiliated Tribes or (ii) tribal entities, enterprises or instrumentalities wholly or majority owned by the Three Affiliated Tribes (collectively, the "Tribe").

For purposes of this Section 7(e), Indebtedness means, as to the Tribe, at a particular time, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP: (a) all obligations of the Tribe for borrowed money and all obligations of the Tribe evidenced by bonds, debentures, notes, loan agreements or other similar instruments; (b) all direct or contingent obligations of the Tribe arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments; (c) net obligations of the Tribe under any swap contract, including without limitation, any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, and confirmations related to any swap contract; (d) all obligations of the Tribe to pay the deferred purchase price of property

or services (other than trade accounts payable in the ordinary course of business); (e) indebtedness secured by a lien on property owned or being purchased by the Tribe (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by the Tribe or is limited in recourse; (f) capital leases and synthetic lease obligations; and (g) all guarantees of the Tribe in respect of any of the foregoing.

