

Commercial and Business Law Developments in Indian Country

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What are Commercial and Business Laws

- Commercial
 - Laws designed to regulate money transactions
- Business
 - Laws designed to regulate how business operates

What are the benefits of these laws?

- Main Benefit - Sovereignty through
 - Economic Development
 - (Internal) Encourages (on-reservation) business development
 - (External) Encourages members to engage in off reservation ventures
 - Legal Development
 - A robust legal code opens the door for resolving business disputes in tribal courts

Internal Development Open for Business

- The development of commercial and business laws encourage outside businesses to want to do business on the reservation.

Internal Development Open for Business

What are these businesses looking for?

- They want a business climate that is:
 - Profitable
- They are looking for a legal regime that is:
 - Predictable
 - Reliable
 - Understandable

External Development

Connecting to the World

- Tribal Commercial and Business laws can also assist members in engaging in commerce with people and businesses off the reservation while still providing the protection of tribal law.
 - For instance, a tribal business owner wants to open a factory on the reservation, but ship her product to the world. Her contracts could be controlled by tribal law.

External Development Cont.'

- Tribal Business and Commercial laws should make tribal members both attractive customers and sellers and + provide protection under YOUR laws and not the laws of another government.

Legal Benefits

- Tribal codes often provide that if tribal law is silent, federal or state laws may be relied upon.
- Business and Commercial law developments ensure that YOUR government makes the rules for how business is conducted and how purchasers are protected.

What Laws Should You Consider

- UCC
- Model Tribal Secured Transactions
- Corporate Business Formation

UCC

- The UCC is a model code provision that regulates just about every conceivable business transaction involving a sale of goods.
- The Secured Transaction Code is a piece of the UCC.
- UCC includes provisions on:
 - Article 1. General Provisions
 - Article 2. Sales
 - Article 2A. Leases
 - Article 3. Negotiable Instruments
 - Article 4. Bank Deposit
 - Article 4A. Funds Transfers
 - Article 5. Letters of Credit
 - Article 6. Bulk Transfers and [Revised] - Bulk Sales
 - Article 7. Bills of Lading and Other Documents of Title
 - Article 8. Investment Securities
 - Article 9. Secured Transactions

Model Tribal Secured Transactions

- Intended to ease barriers to credit in Indian Country.
- This Code was crafted to stand alone, in the absence of other UCC provisions, while still working with them if adopted.
- Main objective - familiarity and predictability of the law for lenders regarding loans and other secured transactions.

Corporate Business Formation

- Laws that provide for different business types
 - Corporations
 - Limited Corporations
 - Limited Partnerships
 - Limited Liability Partnerships
 - Professional Limited Liability Partnerships

Examples of When Tribal Business and Commercial Law would have been helpful

- A recent case involved two tribal members and the dispute was over trademark rights and a contract.

Questions

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