

Public Comment Draft

TOHONO O'ODHAM CODE

TITLE 16 – GAMING

CHAPTER 2 – GAMING ENTERPRISE

SECTION 8: IMMUNITY FROM SUIT: LIMITATIONS

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(b) **Limited Waiver of Immunity.** The Enterprise may be sued only in the Courts of the Nation and only in the following limited circumstances:

(1) **Claims within Insurance Coverage.** With respect to claims against the Enterprise for any personal injury or property damage, the amount and nature of which are within the express coverage of a policy of insurance procured and maintained pursuant to section 6(i) of this Charter, as acknowledged by the insurer under such policy, the Enterprise's immunity is waived to the lesser of the extent of such coverage or \$2,000,000, provided that

(A) any such claim must first be presented to the Enterprise for resolution in accordance with the TOGE Tort Claims Procedures. Any action seeking compensation for injuries done to the person or property of another, including any instance from which death ensues from such injuries, must be commenced and prosecuted in the Tohono O'odham Nation's Courts within two years after the cause of action accrues, and not afterward. For injuries done to the person of another when death ensues from such injuries, the ability to pursue any action shall be considered as accruing at the death of the party injured; and

(B)- any judgment, order, or award may only be satisfied pursuant to:

(A)(i) the express provisions of the policy(ies) of insurance which are in effect at the time of each such judgment, order, or award; and

(B)(ii) an action, if necessary, brought by the prevailing party against the insurer under such policy.