

Title 9 – Probate
Chapter 1 – Determination of Heirs

Sec.

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Legislative History

Enacted:

Probate Code, Ord. 172 (6/30/03), BIA (7/3/03).

Repealed or Superseded:

Law and Order Code, Ord. 7 (3/23/38), BIA (3/24/38).

9-01.010 Title.

This Chapter shall be referred to as the “Probate Code.”

[History] Ord. 172 (6/30/03).

9-01.020 Authority.

This Chapter is hereby enacted pursuant to Article VI, Section 1(n) of the Swinomish Constitution.

[History] Ord. 172 (6/30/03).

9-01.030 Purpose and Application of Code.

The following code, to establish and govern the Tribal Court, shall apply to the Swinomish Indian Reservation, Washington.

It is the purpose of this code to provide adequate legal machinery for the enforcement of law and order for the Swinomish Indian Tribal Community and civil redress for which no

adequate federal or state provision is otherwise made.

[History] Ord. 172 (6/30/03); Ord. 7 (3/23/38).

9-01.040 Definitions.

[Reserved]

[History] Ord. 172 (6/30/03).

9-01.050 Determination of Heirs.

- (A) When any member of the Tribe dies leaving property other than an allotment or other trust property subject to the jurisdiction of the United States, any member claiming to be an heir of the decedent may bring a suit in the Tribal Court to have the court determine the heirs of the decedent and to divide among the heirs such property of the decedent. No determination of heirs shall be made unless all the possible heirs known to the Tribal Court, to the Superintendent and the claimant have been notified of the suit and given full opportunity to come before the Tribal Court and defend their interests. Possible heirs who are not residents of the Swinomish Indian Reservation under the jurisdiction of the Tribal Court may be notified by mail and a copy of the notice must be preserved in the record of the case.
- (B) In the determination of heirs the Tribal Court shall apply state laws in deciding what relatives of the decedent are entitled to be his or her heirs.
- (C) Where the estate of the decedent includes any interest in restricted allotted lands or other property held in trust by the United States, over which the Examiner of Inheritance would have jurisdiction, the Tribal Court may distribute only such property as does not come under the jurisdiction of the Examiner of Inheritance, and the determination of heirs by the Tribal Court may be reviewed, on appeal, and the judgment of the court modified or set aside by the Examiner of Inheritance, with the approval of the Secretary of the Interior, if law and justice so require.

[History] Ord. 172 (6/30/03); Ord. 7 (3/23/38).

9-01.060 Repealer.

The probate Sections of Ordinance 7 are hereby repealed and superseded.

[History] Ord. 172 (6/30/03).

9-01.070 Severability.

[Reserved]

[History] Ord. 172 (6/30/03).