

Chapter XXIII

IMMUNITY AND WAIVER

2300. TRIBAL IMMUNITY – The Bay Mills Indian Community enjoys a sovereign’s immunity from suit in any tribal, state or Federal court. This immunity from suit is solely waived, either in its entirety or in limited manner, as provided in this Chapter. For purposes of this Chapter the term suit includes an action to compel binding arbitration or to implement an arbitration judgment or order.
2301. WAIVER OF IMMUNITY –Any waiver under this Chapter shall be in the form of a written resolution of the Executive Council of the Bay Mills Indian Community, adopted pursuant to Section 2303.
- A. A resolution under this subsection shall:
- (1) Expressly state the tribe is waiving its immunity from suit.
 - (2) Expressly state the tribe is consenting to suit.
 - (3) Shall designate the forum where the suit may be brought.
 - (4) Shall designate the governing law.
 - (5) Shall be specific as to:
 - (a) The recipient of the waiver of immunity from suit.
 - (b) The transaction to which the waiver of immunity from suit applies.
 - (c) The property, assets, or funds subject to the waiver of immunity from suit.
2302. TRIBAL ENTITY IMMUNITY – A tribal entity is defined as:
- A. A wholly owned governmental instrumentality of the Tribe;
 - B. An entity chartered by the tribe and subject to the Tribe’s management and oversight and is vested with the Tribe’s immunity from suit by operation of this Chapter and as codified in the tribal entity’s charter.

2303. TRIBAL ENTITY WAIVER OF IMMUNITY – A tribal entity may waive its immunity from suit in conformity with Section 2301 through an action of its duly constituted governing body that is in substantial conformance with the intent of Section 2301(A)(1)-(5), but only if the tribal entity’s charter expressly authorizes the tribal entity to waive its immunity.
2304. IMPLEMENTATION AND PRIOR WAIVERS OF SOVEREIGN IMMUNITY – This Chapter shall be effective upon enactment. A waiver of immunity by the tribe or a tribal entity issued prior to the effective date of this Chapter remains a valid and enforceable action, provided that such action is in written form, executed by the tribe’s President or by the tribal entity’s presiding officer, and the contents of such waiver are authorized by the relevant governing body.
2305. IMPROPER WAIVER – A waiver made in contravention of this Chapter is invalid and ineffective.