

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 26: RICO

§ 1413. Duties of trustees regarding lien notice--Liability--Recovery of costs

Cite as: 22 CNCA § 1413

A. A trustee, who acquires actual knowledge that a lien notice or a civil proceeding or criminal proceeding has been filed against any person for whom the trustee holds legal or record title to personal or real property, shall immediately furnish to the Attorney General the following:

1. The name and address of the person;
2. The name and address of all other persons for whose benefit the trustee holds title to the personal or real property; and
3. If requested by the Attorney General, a copy of the trust agreement or other instrument pursuant to which the trustee holds legal or record title to the personal or real property. Any trustee who fails to comply with the provisions of this section, upon conviction, is guilty of a felony.

B. Any trustee having notice of the filing of the lien notice, who transfers or conveys title to personal or real property on which said notice has been filed, shall not be liable to the Nation for the greater of:

1. The amount of proceeds received directly by the person named in the lien notice as a result of the transfer or conveyance;
2. The amount of proceeds received by the trustee as a result of the transfer or conveyance and distributed to the person named in the lien notice; or
3. The fair market value of the interest of the person named in the lien notice in the personal or real property transferred or conveyed; but if the trustee transfers or conveys the personal or real property for at least its fair market value and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or designee of the beneficiary, the liability of the trustee shall not exceed the amount of the proceeds held for so long as the proceeds are held by the trustee.

C. The filing of a lien notice shall not constitute a lien on the record title to personal or real property owned by the trustee except to the extent the trustee is named in the lien notice.

The Attorney General may bring a civil proceeding in the Cherokee Nation District Court against the trustee to recover from the trustee the amounts set forth in the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act, and the Nation shall also be entitled to recover investigative costs and attorneys fees incurred by the Attorney General.

D. The provisions of this section shall not apply to any transfer or conveyance by a trustee pursuant to a court order, unless the court order is entered in an action between the trustee and the beneficiary.

Historical Data

Amended LA 30-21, eff. June 18, 2021.