§ 566. Indian tribes. 1. Definitions. (a) Indian tribe shall mean any Indian tribe, subdivision, subsidiary or business enterprise wholly owned by such Indian tribe, as defined in section 3306(u) of the federal unemployment tax act (FUTA).

(b) The term "employer" as defined under section five hundred twelve of this article shall include any Indian tribe for which service in employment as defined under this article is performed.

(c) The term "employment" as defined under section five hundred eleven of this article shall include service performed in the employ of an Indian tribe provided such service is excluded from "employment" as defined in FUTA solely by reason of section 3306(c)(7), FUTA, and is not otherwise excluded from "employment" under this article. For purposes of this section, the exclusions from employment in subdivision two of section five hundred sixty-five of this article shall be applicable to services performed in the employ of an Indian tribe.

2. Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this article.

3. Coverage. An Indian tribe shall be liable for contributions under this article unless it becomes liable for payments in lieu of contributions.

4. Election of payments in lieu of contributions. (a) Indian tribes liable for contributions under this article may elect to become liable for payments in lieu of contributions in the same manner and under the same conditions as provided in section five hundred sixty-five of this article except as otherwise provided in this section. Indian tribes may make separate elections for itself and each subdivision, subsidiary, or business enterprise wholly owned by such Indian tribe.

(b) An Indian tribe which has elected to become liable for payments in lieu of contributions shall pay into the fund an amount equal to the amount of benefits paid to claimants and charged to its employer's account in accordance with the provisions of paragraph (e) of subdivision one of section five hundred eighty-one of this article on

the basis of remuneration paid on or after the date on which such liability became effective. The amount of payments so required shall be determined by the commissioner as soon as practicable after the end of each calendar quarter or any other period. Such amount shall be payable quarterly or at such times and in such manner as the commissioner shall prescribe and, when paid, the employer's account of the Indian tribes shall be discharged accordingly.

(c) If an Indian tribe elects payments in lieu of contributions as a group, the members of the group shall be severally and jointly liable for payments of amounts equal to the amounts of benefits paid to claimants and charged to the employer's accounts of all members of the group. The commissioner may prescribe conditions and methods for such group elections and for the discharge of the obligations and responsibilities of the group and its members. Such request shall be made in accordance with the provisions of paragraph (a) of this subdivision.

(d) Any Indian tribe that elects to become liable for payments in lieu of contributions shall, within ninety days of the approval date of its election, execute and file with the commissioner a surety bond approved by the commissioner as to amount and form. Such surety bond shall continue in effect during periods covering such election, but may be revised annually as to amount and form at the discretion of the commissioner.

5. Termination of election. (a) An Indian tribe may terminate its election to become liable for payments in lieu of contributions as of the first day of any calendar year by filing a written notice to this effect with the commissioner before the beginning of such year.

(b) If such election is terminated by an Indian tribe or cancelled by the commissioner, the Indian tribe shall remain liable for payments in lieu of contributions with respect to all benefits charged to its account on the basis of remuneration paid before the date on which such termination or cancellation took effect.

(c) Failure of an Indian tribe to make required payments, including assessments of interest and penalty, within ninety days of receipt of the notice of delinquency, will cause the Indian tribe to lose the option to make payments in lieu of contributions, as described in

subdivision four of this section, for the following calendar year unless payment in full is received before the computation date preceding the following calendar year.

(d) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph (c) of this subdivision, may request such option be reinstated prospectively by the commissioner, if all contributions have been made timely, provided no contributions, payments in lieu of contributions for benefits paid, penalties or interest are outstanding. Such request shall be made in accordance with the provisions of paragraph (a) of subdivision four of this section.

6. Termination of coverage. (a) If, within ninety days of receipt of a notice of delinquency, an Indian tribe fails to make required contributions, payments in lieu of contributions, payments of penalties or interest under this article or fails to post a payment bond, and after all collection activities deemed necessary by the commissioner have been exhausted, the commissioner may cause services performed for such tribe to not be treated as "employment" for purposes of subdivision one of this section. Such termination of coverage shall be effective on the first day of the quarter following the quarter in which notice of termination was mailed.

(b) The commissioner may determine that an Indian tribe that loses coverage under paragraph (a) of this subdivision, may have services performed for such tribe again included as "employment" for purposes of subdivision one of this section if all contributions, payments in lieu of contributions, penalties and interest have been paid. Such coverage shall begin as of the quarter following the calendar quarter in which all contributions, payments in lieu of contributions and interest have been paid.

7. Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame:

(a) will cause the Indian tribe to be liable for taxes under FUTA;

(b) will cause the Indian tribe to lose the option to make payments in lieu of contributions;

(c) could cause the Indian tribe to be exempted from the definition of "employer", as provided in subdivision one of this section, and services in the employ of the Indian tribe, as provided in subdivision two of this section, to be exempted from "employment".

8. Joint accounts. Any two or more Indian tribes may form a joint account by complying with rules and regulations prescribed by the commissioner for the establishment, maintenance and dissolution of such accounts.

9. Assessment and collection of payments in lieu of contributions. The amount of payments in lieu of contributions due hereunder from Indian tribes but not paid upon notice shall be assessed and collected by the commissioner, together with interest and penalties, if any, in the same manner and subject to the same conditions under which contributions due from other employers may be assessed and collected under provisions of this article.

10. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

11. If an Indian tribe fails to make payments required under this section (including assessments of interest and penalty) within ninety days of a final notice of delinquency, the commissioner will immediately notify the United States internal revenue service and the United States department of labor.