



Legislation Text

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ACT RELATING TO AMENDMENT OF LA 16-96, THE CHEROKEE NATION GENERAL CORPORATION ACT, AS AMENDED BY LA-02-03 AND LA#04-04 BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

Example: This act shall be known as the "Cherokee Nation General Corporation Act Amendments of 2012" and codified as _____ (Title) _____ (Section) _____ of the Cherokee Nation Code Annotated.

Section 2. Purpose

To amend Legislative Act 16-96, as amended by Legislative Act 2-03, to remove the requirement of prior Tribal Council approval of purchases of real property by corporations in which the Cherokee Nation is the sole or majority shareholder. This Act would preserve the necessary confidentiality of real property purchases during negotiations, which protects the competitiveness of such corporations authorized by the Constitution and the laws of the Nation.

Section 3. Legislative History

Legislative Act 25-01, the Freedom of Information and Rights of Privacy Act of 2001, Section 6.A.(5)(b) states:

"(b) a contract for the sale or purchase of real estate shall remain exempt from disclosure until the deed is executed, but this exemption applies only to those contracts of sale or purchase where the execution of the deed occurs within twelve months from the date of sale or purchase;"

Section 9.A.(2) of L.A. 25-01 states in part:

"A. A public body may hold a meeting closed to the public for one or more of the following reasons:

(2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property..."

L.A. 2-03 was passed January 13, 2003, amending the Cherokee Nation General Corporation Act, L.A. 16-96.

L.A. 4-04 was passed February 17, 2004, amending the Cherokee Nation General Corporation Act.

Section 4. Amendment

Article 3, Section 16, Subsection 17 of Legislative Act 16-96 is hereby amended by deleting the words "purchase real property or" and adding a sentence so as to read:

17. Provided that Corporations in which the Cherokee Nation is the sole or majority shareholder can not give, pledge or loan its credit to any individual, firm, company, corporation or association without prior approval of the Cherokee Nation Tribal Council. The Tribal Council shall develop procedures to facilitate this Act without interfering with the daily operations of tribally owned Corporations or businesses. The Tribal Council hereby pre-approves corporation in which the Cherokee Nation is majority shareholder to make purchases of real properties in an amount not to exceed six million dollars (\$6,000,000.00) ~~fifteen~~ million dollars (\$15,000,000.00) in the aggregate during a fiscal year.

Said corporations shall acquire Tribal Council approval to make additional purchases of real properties in excess of the six million dollar ~~fifteen~~ million dollar fiscal year limit. Said tribal corporations through its officers shall report to the Executive & Finance Committee of the Cherokee Nation Tribal Council on the status of real property acquisitions. Article 3, Section 18 of Legislative Act 16-96 is hereby amended by adding the words "and that are incorporated under Cherokee Nation law" so as to read:

Section 5. Provisions as cumulative

The provisions of this act shall be cumulative to existing law.

Section 6. Severability

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Section 7. Sunset Clause

The limit set forth in Section 4 shall revert back to six million dollars (\$6,000,000.00) on ~~September 30~~ October 1, 2013.

Section 78. Effective Date: Emergency Declared

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.