

An Act

Legislative Act 12-11

A LEGISLATIVE ACT RELATING TO AMENDING THE CHEROKEE NATION SOVEREIGN IMMUNITY ACT, LA#23-04

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This Act shall be known as the 2011 Amendment to the Sovereign Immunity Act, LA 23-04, and codified as _____ (Title) _____ (Section) _____ of the Cherokee Nation Code Annotated.

Section 2. Purpose

To amend the Sovereign Immunity Act to authorize the Principal Chief to execute limited waivers of sovereign immunity for business entities to enable them to participate in New Markets Tax Credit transactions.

Section 3. Legislative History

LA 23-04 was enacted June 14, 2004 and amended by LA 16-05 on April 11, 2005, and by LA 12-08 on July 14, 2008.

Section 4. Substantive Provisions

LA 23-04 is hereby amended by amending and restating Section 8 as follows:

Section 8. Delegation of Authority as to Cherokee Nation Business Entities

The Principal Chief is authorized to grant a waiver of the sovereign immunity of Cherokee Nation Businesses or a business entity in which Cherokee Nation Businesses owns an interest, (i) to a bonding company, surety, or other guarantor for the purpose of securing a contract, in which case such waiver will be, in the case of Cherokee Nation Businesses, limited to its cash or cash equivalent assets, or (ii) to a company in connection with a New Markets Tax Credit transaction. Such waiver will be, in the case of a business entity in which Cherokee Nation Businesses owns an interest, limited to the assets of that entity. Waivers under this section will not be subject to the limitations of Section 6. This section does not allow the Principal Chief to grant a waiver as to the Cherokee Nation or otherwise allow recovery against the Cherokee Nation, its assets, or any elected officials, officers or employees of the Cherokee

Nation.

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 or 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.

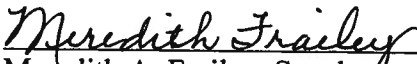
Section 7. Emergency declared

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.


Section 8. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.


Enacted by the Council of the Cherokee Nation on the 20th day of June, 2011.


Meredith A. Frailey, Speaker
Council of the Cherokee Nation

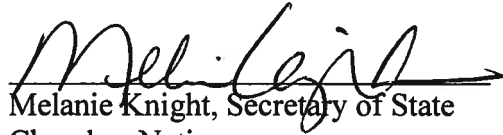
ATTEST:


Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 24th day of June, 2011.


Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:


Melanie Knight, Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Tina Glory Jordan	<u>Yea</u>	Meredith A. Frailey	<u>Yea</u>
Bill John Baker	<u>Yea</u>	Chris Soap	<u>Yea</u>
Joe Crittenden	<u>Yea</u>	Cara Cowan Watts	<u>Yea</u>
Jodie Fishinghawk	<u>Absent</u>	Buel Anglen	<u>Yea</u>
Janelle Lattimore Fullbright	<u>Yea</u>	Bradley Cobb	<u>Yea</u>
David W. Thornton, Sr.	<u>Yea</u>	Charles Hoskin, Jr.	<u>Yea</u>
Don Garvin	<u>Yea</u>	Julia Coates	<u>Yea</u>
Harley L. Buzzard	<u>Yea</u>	Jack D. Baker	<u>Yea</u>
Curtis G. Snell	<u>Yea</u>		

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<u>ADMINISTRATIVE CLEARANCE</u>	
Program/Project Manager:	
Signature/Initial	Date
Department Director:	
Signature/Initial	Date
Executive Director:	
Signature/Initial	Date
Controller: (if needed)	
Signature/Initial	Date
Government Resources:	
<i>[Signature]</i>	<i>4/11/11</i>
Signature/Initial	Date
Administration Approval:	
<i>[Signature]</i>	<i>[Date]</i>
Signature/Initial	Date

Cherokee Nation Act/Resolution Proposal Form

Act Resolution

TITLE: Sovereign Immunity Act 2011 Amendment

DEPARTMENT CONTACT: _____

RESOLUTION PRESENTER: Brad Carson

SPONSOR: Meredith Frailey

NARRATIVE: (See Attached Outline for Information If Outline is Required)

The New Markets Tax Credit program is a powerful engine for economic development that will be used to improve the economy of some of the poorest counties in the Cherokee Nation. A subsidiary of Cherokee Nation Businesses has been awarded the right to allocate tax credits as part of this program. The tax credits are generated when an investor makes an investment in a qualified business or real estate project in a low-income community. In return for its investment, the investor receives the tax credits.

CNB will be participating in several transactions, and waivers of sovereign immunity will be required in each. To deal with multiple transactions, CNB needs a single authorization from the Council that allows the Principal Chief to execute waivers.

This authorization will allow Cherokee Nation Businesses to bring economic development investments to the Cherokee Nation without posing risk to the tribal government.

<u>LEGISLATIVE CLEARANCE:</u>	
Legislative Aide:	
<i>[Signature]</i>	<i>4/12/11</i>
Signature/Initial	Date
Standing Committee & Date:	
<i>[Signature]</i>	<i>4/28/11</i>
Chairperson:	
<i>[Signature]</i>	
Signature/Initial	Date
Returned to Presenter: _____	
	Date