

TITLE 31

HERITAGE AND CULTURE

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CHAPTER 1

GENERAL PROVISIONS

Section

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§ 101. Short title and purpose

The purpose of this act is to provide for promotion and preservation of Cherokee language, history and culture. It will be commonly referred to and may be cited as the Cherokee Nation Language and Cultural Preservation Act. This act is in recognition that the survival of a people is dependent upon their capacity to preserve and protect their culture and language. This act further promotes the acculturation of tribal youth through education about their history, language and culture and establishes tribal policy for the promotion and preservation of the Cherokee language and culture.

LA 10-91, eff. July 13, 1991.

§ 102. Establishment of official languages

Cherokee Nation does hereby officially establish both Cherokee and English as official languages for the tribe. The encouraged use of these languages is as follows:

1. Tribal government. Any tribal citizen may speak in Cherokee or English in communicating with tribal government with regard to any programs or services provided. Any tribal citizen may use either Cherokee or English languages to communicate with the Tribal Council in any officially called meeting of the Council on any occasion on which said person may be recognized to speak.

2. Translation services. In any situation in which translation into English is deemed necessary or appropriate for persons using Cherokee language as defined in subsection (A) of this section, translation services may be provided.

LA 10-91, eff. July 13, 1991.

§ 103. Language maintenance

It shall be the policy of Cherokee Nation to take the leadership to maintain and preserve the Cherokee language as a living language. Such efforts shall include but not be limited to:

1. efforts to involve tribal citizens to the greatest extent possible in instruction in Cherokee language;

2. establishment of a permanent Cherokee Language Program as a support unit for all programs and services within Cherokee Nation subject to such funding limitations as may exist from year to year;

3. encouraging the use of Cherokee language in both written and oral form to the fullest extent possible in public and business settings;

4. encouraging creation and expansion of the number, kind and amount of written materials in the Cherokee language and official encouragement for the development of materials on, by or through Cherokee Nation service programs.

LA 10-91, eff. July 13, 1991. Amended LA 2-95, eff. April 10, 1995.

§ 104. Education

Cherokee Nation promotes the use of both the Cherokee and English languages to the fullest extent possible within tribal, local, state and federal educational institutions, agencies and programs. It is therefore the policy of the Cherokee Nation:

1. To work with all schools, state and federal agencies and others to encourage that those schools which serve large percentages of Cherokee students adequately and fairly represent the language, history and culture of the tribe in the instructional, administrative and social processes of the school.

2. To the greatest extent possible within budgetary limitations, provide summer, evening, weekend and other tribal programs, for instruction of children and adults who have an interest in cultural education.

3. To provide instruction in Cherokee language at the preschool level in programs operated by Cherokee Nation of Oklahoma.

4. To recognize certain tribal elders and talented tribal citizens as knowledgeable in the culture, language, history and related skills of Cherokee Nation. These people may be recognized as "Eminent Persons" who may be employed in positions related to culture, language and history and may be paid for their educational services.

5. To oppose biased, stereotypic and/or derogatory depiction of Cherokees or American Indians within education institutions or wherever such representations which work to lower the self-esteem of Cherokee youth may be found.

LA 10-91, eff. July 13, 1991.

§ 105. Employment

Cherokee Nation acknowledges the need to provide bilingual clerical and other staff in programs and positions which call for extensive public contact with tribal citizens. Given the need to assure that the Cherokee language may be used in the workplace for conduct of business between Cherokee-speaking tribal citizens and staff of Cherokee Nation and to promote good role modeling by Cherokee Nation staff, the following policies are adopted:

1. All Cherokee Nation personnel shall become more knowledgeable in Cherokee history, language and culture.

2. Cherokee Nation will provide an educational program for all Cherokee Nation employees in the history, language, and culture of Cherokee Nation to become more knowledgeable in these subjects. This program will provide information which will promote pride and tribal identity and respect for tribal government and Cherokee people.

LA 10-91, eff. July 13, 1991.

CHAPTER 2

ART AND FACILITIES

Section

201. Short title

202. Purpose

203. Definitions

204. Historically and culturally appropriate artwork in Cherokee Nation facilities and properties

§ 201. Short title

This act shall be known and may be cited as the Cherokee Art and Facilities Act of 2005.

LA 25-05, eff. August 12, 2005.

§ 202. Purpose

The purpose of this act is earmark a percentage of construction or renovation cost on all facilities built by the Cherokee Nation (and its wholly-owned/majority owned businesses) to be used for historically and culturally appropriate artwork done by Cherokee Nation citizens.

LA 25-05, eff. August 12, 2005.

§ 203. Definitions

For purposes of this chapter:

1. **"Cherokee Nation citizen"** means a citizen of Cherokee Nation as determined by the Cherokee Nation Registration office.
2. **"Cherokee Nation facility"** means any building or property owned or under construction by or for the Cherokee Nation, or subject to or under a long-term lease to the Nation in which the nation is investing its own capital for new construction or improvements to existing facilities, or any property owned or under construction by or for any business in which the Cherokee Nation is a sole or majority shareholder, or subject to or under a long-term lease to such business in which the business is investing its own capital for new construction or improvements to existing facilities.
3. **"Construction or renovation"**. This act applies to any new construction or any renovation to an existing facility, the cost of which exceeds Five Hundred Thousand Dollars (\$500,000.00).

LA 25-05, eff. August 12, 2005. Amended LA 01-07, eff. February 25, 2007.

§ 204. Historically and culturally appropriate artwork in Cherokee Nation facilities and properties

For any construction or renovation to an existing Cherokee Nation facility or property, or any facility or property in which the Cherokee Nation is the sole or majority shareholder, the budget of such project shall set aside one percent (1%) of the total cost of construction or renovation for artwork that is historically and culturally appropriate for the facility and provided that the artwork is designed and created by Cherokee Nation citizens. The facility being built or renovated must be suitable to housing and displaying art. If said facility is found not suitable to housing or displaying art the one percent (1%) of the construction budget referred to in this act shall be set aside for distribution to me an appropriate Cherokee Nation-owned facility capable of housing and displaying art.

Such artwork may include, but is not limited to: sculpture, painting, carving, beadwork, basketry, traditional crafts, culturally appropriate landscaping and any other media of Cherokee art deemed to be cultural, historic, or traditional. Expenditures under this act may include the cost of the appropriate display and installation of said art work.

The Principal Chief shall designate the appropriate office within the Executive Branch whose responsibility will be to make the determination of which artwork

is appropriate under this act.

LA 25-05, eff. August 12, 2005. Amended LA 01-07, eff. February 25, 2007.

CHAPTER 3

ARTS AND CRAFTS COPYRIGHT

Section

301. Short title

302. Purpose

303. Definitions

304. Purchase of copyright prohibited

§ 301. Short title

This act shall be known and may be cited as the Cherokee Nation Arts and Crafts Copyright Act Amendment of 2012.

LA 19-07, eff. June 22, 2007. Amended LA 42-12, eff. December 16, 2012.

§ 302. Purpose

The purpose of this act is to prevent the purchase of copyrights of works of art by the Cherokee Nation or its entities in the initial purchase of the work of art and to ensure that policies shall be created by Cherokee Nation and its affiliated entities to include in their contracts in purchasing arts and crafts to avoid any prohibitions of this act.

LA 19-07, eff. June 22, 2007. Amended LA 42-12, eff. December 16, 2012.

§ 303. Definitions

A. **"Arts and crafts"** means any traditional or contemporary skill or creative work of graphics, painting, sculpture, music, writing, basketry, jewelry, pottery, metalwork, photography, or other crafts or media that an artist chooses to produce works of art from.

B. **"Cherokee Nation"** means the Cherokee Nation Government located at Tahlequah Oklahoma and all departments and agencies thereof.

C. **"Cherokee Nation entities"** means any corporation, company, business or other entity in which Cherokee Nation owns a majority interest.

LA 19-07, eff. June 22, 2007. Amended LA 42-12, eff. December 16, 2012.

§ 304. Purchase of copyright prohibited

A. In the event Cherokee Nation or its affiliated entities request bids for arts or crafts or Solicit for the purchase of art and crafts the purchase of copyrights

of the item is prohibited in the initial sale.

B. Cherokee Nation and its affiliated entities shall establish policies to include in their contracts in purchasing arts and crafts to avoid any prohibitions of this act.

LA 19-07, eff. June 22, 2007. Amended LA 42-12, eff. December 16, 2012.

CHAPTER 4

TRUTH IN ADVERTISING FOR NATIVE ART

Section

401. Short title

402. Purpose

403. Definitions

404. Authentic Indian art-Registry-Inventory

§ 401. Short title

This act shall be known and may be cited as the Cherokee Nation Truth in Advertising for Native Art Act.

LA 01-08, eff. March 20, 2008.

§ 402. Purpose

The purpose of this act is to establish guidelines for the purchase, promotion and sale of genuine Native American arts and crafts within Cherokee Nation and by Cherokee Nation entities. This act is further intended to encourage and allow Cherokee artists to be diverse, creative as well as traditionally influenced and to continue the use of traditional materials as well as use new mediums.

LA 01-08, eff. March 20, 2008.

§ 403. Definitions

A. **"Art"** is an object or action that is made with the intention of stimulating the human senses as well as the human mind and/or spirit regardless of any functional uses. For purposes of this act, **"art"** also includes crafts, handmade items, traditional storytelling, contemporary art or techniques, oral histories, other performing arts and printed materials.

B. **"Cherokee Nation"** means the government, its agencies and instrumentalities, including but not limited to Cherokee Nation Businesses, Cherokee Nation Enterprises, Cherokee Nation Industries and Housing Authority of Cherokee Nation, any component units of Cherokee Nation and any entities in which Cherokee Nation is the sole or majority stockholder or owner.

C. **"Indian"** means a citizen or member, not individually adopted, of a federally

recognized Indian entity evidenced under the Federally Recognized Indian Tribe List Act of 1994, PL 103-454, November 2, 1994, 25 U.S.C. § 479a, as amended.

D. **"Indian art"** means art produced by an Indian.

E. **"Indian artist"** means an Indian who produces art.

LA 01-08, eff. March 20, 2008.

§ 404. Authentic Indian art-Registry-Inventory

A. Cherokee Nation shall not knowingly offer for sale art that is produced by individuals who falsely claim, imply, or suggest that they are Indian.

B. Cherokee Nation shall not host, sponsor, fund, or otherwise devote or contribute any resource to art exhibits allowing the exhibition of works by artists who falsely claim, imply, or suggest that they are Indian.

C. The Tribal Employment Rights Office (TERO) shall maintain a voluntary registry of Cherokee artists and their contact information.

D. The Principal Chief shall cause to be published an inventory of all Indian art owned by Cherokee Nation, and such listing shall be accessible to the public.

E. The Principal Chief shall cause to be developed a label or other form of identification to be placed upon or with any Indian art or craft sold by Cherokee Nation or its entities. This is to ensure and identify the object being sold as authentic Indian art.

F. The Principal Chief shall cause to be published an inventory of all Indian art owned by Cherokee Nation, except for art held for resale in retail stores or warehoused for such purpose, and such listing shall be a public record pursuant to the Freedom of Information and Right of Privacy Act, 67 CNCA § 101 et seq.

LA 01-08, eff. March 20, 2008.

Chapter 5

BURIAL ASSISTANCE FOR THE NATIONAL TREASURES OF THE CHEROKEE NATION

Section

501. Definitions

502. Substantive Provisions

§ 501. Definitions

For purposes of this Title:

A. A Cherokee Nation National Treasure is defined in Council Resolution 68-09 and further defined in Cherokee National Treasures Advisory Committee By Laws Article II, Section C.

LA 20-17, eff. November 23, 2017.

§ 502. Substantive Provisions

A. The Cherokee Nation shall provide a standard burial for a Cherokee National Treasure at a contracted funeral home under the Burial Assistance Program which will be paid in full by the Nation.

LA 20-17, eff. November 23, 2017.

CHAPTER 6

THE DURBIN FEELING CHEROKEE LANGUAGE PRESERVATION ACT

Section

601. Amounts Authorized

602. Building Naming

603. Secretary of Language, Culture and Community

604. Policy of Accountability

605. Reporting Requirements

Historical and Statutory Notes

2019 Legislation

LA 19-19, Section 2, provides:

"Section 2. Purpose. The purpose of this Act is to a) authorize capital funding and increased operating funding for Cherokee language programs beginning in fiscal year 2020, b) authorize the Principal Chief to name the proposed language center the 'Durbin Feeling Language Center' and c) create the cabinet office of Secretary of Language, Culture and Community."

§ 601. Amounts Authorized

A. Capital funding shall not exceed \$5 million for fiscal year 2020, with unexpended funds carried over until the completion of the facility set forth below. The capital funding will expand and renovate the existing building and site located at 16489 US HWY 62, Tahlequah, OK 74464

B. Operational funds shall be no less than \$1.5 million in excess of fiscal year 2020 Comprehensive Budget Act appropriations for language programs, with such authorization expiring September 30, 2024, unless specially reauthorized by act of the Council of the Cherokee Nation. Said funds may be used to expand the Cherokee Master Apprentice Language Program and create or expand such other language programs to effectuate the purposes and policies of this Act.

C. The funding source is dividends received from those governmental revenue entities in which Cherokee Nation is the sole or majority shareholder, and that

are organized under Cherokee Nation law. Other sources of funding, such as grants, miscellaneous sources and contributions, revenues of enterprises, taxes, and special and general fund sources, may be used to supplement this funding in order to maximize the beneficial impact through a cohesive strategy to achieve the Purpose as identified herein.

D. The Principal Chief is authorized to execute such memoranda of agreement with Cherokee Nation Businesses to effectuate the funding requirements of this Act.

E. All funding set forth herein is subject to the Council appropriations process.

LA 19-19, eff. October 15, 2019.

§ 602. Building Naming

The Principal Chief is authorized to designate the facility described in Section 2(A) as the "Durbin Feeling Language Center."

LA 19-19, eff. October 15, 2019.

§ 603. Secretary of Language, Culture and Community

The Principal Chief is authorized to establish the cabinet position of Secretary of Language, Culture and Community at such time and subject to such terms as he deems warranted, subject to a term of office coextensive with that of the Principal Chief and subject to nominee confirmation by the Council of the Cherokee Nation.

LA 19-19, eff. October 15, 2019.

§ 604. Policy of Accountability

A. All funds pursuant to this Act under the care of the Cherokee Nation shall be expended as authorized by this enactment unless amended.

B. Any official who intentionally and willfully misuses, misapplies, diverts or embezzles the application or use of any public funds entrusted to the care of the Cherokee Nation from any sources may be prosecuted according to applicable criminal statutes.

LA 19-19, eff. October 15, 2019.

§ 605. Reporting Requirements.

Prior to the expiration of each fiscal year, the Principal Chief shall designate an official to compile a report to be delivered to his office and to the Speaker of the Council on the efficacy of Cherokee Nation Language Programs, which shall include recommendations for changes and improvements to the language programs.

LA 19-19, eff. October 15, 2019.

CHAPTER 7

CHEROKEE NATION REGISTRY OF HISTORIC PLACES

Section

1001. Findings

1002. Policy

1003. Definitions

1004. Tribal Historic Preservation Office

1005. Cherokee Nation Register of Historic Properties

1006. Protection of Historic Properties

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1014. Effective Date/Emergency Declared

1015. Self-Help Contributions

Historical and Statutory Notes

2019 Legislation

LA 26-19, Section 2, provides:

"Section 2. Purpose. The purpose of this Act is to provide a comprehensive framework for identifying, protecting and preserving Cherokee Nation cultural heritage sites."

§ 1001. Findings

A. This Act may be cited as the "Cherokee Nation Registry of Historic Places Act"

B. The Council of the Cherokee Nation finds and declares that:

1. The Cherokee Nation's history and people are reflected in its cultural heritage;

2. The cultural heritage of the Cherokee Nation should be preserved as a living part of our history and community;

3. The preservation of irreplaceable cultural heritage sites is in the interest of the Cherokee Nation and its citizens to ensure that the legacy of cultural, educational, aesthetic, and inspirational sites will be maintained; and

4. Although federal and state governments play a role in protecting Cherokee historical sites, it is essential that the Cherokee Nation expand its cultural resource preservation activities for future generations.

LA 26-19, eff. December 20, 2019.

§ 1002. Policy

It shall be the policy of the Cherokee Nation, in cooperation with other Indian tribes, state and federal agencies, private organizations, and individuals to:

A. Use appropriate measures to ensure the integrity of Cherokee Nation cultural heritage sites;

B. Administer Cherokee Nation-owned or controlled cultural heritage sites in a spirit of stewardship for present and future generations; and

C. Contribute to the preservation of non-Cherokee Nation owned cultural heritage sites by providing support to organizations and individuals undertaking preservation by public or private means.

LA 26-19, eff. December 20, 2019.

§ 1003. Definitions

As used throughout this Act, the term:

A. **"Act"** means the Cherokee Nation Registry of Historic Places Act.

B. **"Cultural Property"** means any cultural resource deemed to be important enough to warrant listing in the Cherokee Register.

C. **"Cultural Resource"** means any product of Cherokee activity, or any object or place given significance by Cherokee action or belief

D. **"District"** means any discrete area comprising buildings, objects, sites, or structures.

E. **"Lands in Which the Cherokee Have a Historical Interest"** means all lands historically or traditionally used by the Cherokee.

F. **"Cherokee Lands"** means those lands held in trust for the benefit of the Cherokee Nation and those lands which the Cherokee Nation holds a possessory interest.

G. **"Cherokee Register"** means the Cherokee Nation Register of Historic Properties.

H. **"Object"** means a product of Cherokee activity or an item given significance or meaning by Cherokee activity or belief.

I. **"Place"** refers to an identifiable location at which an event occurred or a location given significance by Cherokee action or belief.

J. **"THPO"** means the Cherokee Nation Tribal Historic Preservation Officer.

K. **"Secretary"** shall refer to the Secretary of Natural Resources.

L. **"Site"** means the location of the physical remains of Cherokee activity.

M. **"Sponsor"** means the government official or the official in a private capacity who has decision-making authority over a particular undertaking and who has entered into a cooperative agreement with the Cherokee Nation concerning an undertaking.

N. **"Structure"** means construction resulting from Cherokee activity.

O. **"Undertaking"** means any project, activity, or program that can result in changes in the character or use of a culturally significant property. The project, activity or program must be under the direct or indirect jurisdiction of a Sponsor. Undertakings include new and continuing projects, activities, or programs not previously considered under the authority of this Act.

LA 26-19, eff. December 20, 2019.

§ 1004. Tribal Historic Preservation Office

The Cherokee Nation Tribal Historic Preservation Office (hereafter referred to as the "THPO Office"), under the guidance of the Cherokee Nation Secretary of Natural Resources shall be the Cherokee Nation's agency responsible for the consultation, evaluation, identification, and registration of Cultural Property and is authorized to set policies and procedures to achieve the goals of the Act. The THPO shall advise the Principal Chief, the Council of the Cherokee Nation, the divisions, departments, programs, agencies, authorities, enterprises and other instrumentalities of the Cherokee Nation, the federal, state and local governments, private organizations and individuals on matters pertaining to preservation of cultural resources and historical places.

LA 26-19, eff. December 20, 2019.

§ 1005. Cherokee Nation Register of Historic Properties

A. The THPO, under the guidance of the Secretary of Natural Resources, shall create, maintain and administer a Cherokee Nation Register of Historic Properties (hereinafter referred to as the "Cherokee Register") comprising districts, places, sites and structures significant in Cherokee Nation history, architecture, archaeology, engineering and culture. The Secretary of Natural Resources is authorized and required to maintain the Cherokee Register and may list and de-list properties at the direction of the Principal Chief. The location, nature, and significance of certain places, objects, and sites may be culturally sensitive and, therefore, restricted from registry access.

B. At least sixty (60) days prior to the designation of a property on the Cherokee Register, the Secretary of Natural Resources shall submit a report of the proposed

designated properties for review and comment to the Culture Committee of the Council of the Cherokee Nation, or such other committee as may be designated by the Speaker of the Council of the Cherokee Nation. Such Report shall be made available for public inspection in a manner prescribed by the Secretary.

C. The THPO may locate, inventory, and evaluate cultural resources and properties on lands in which the Cherokee have a historical interest, including Cherokee Lands, and recommend any such resources for listing on the Cherokee Register.

LA 26-19, eff. December 20, 2019.

§ 1006. Protection of Historic Properties

In order to ensure the protection of the historic properties of the Cherokee Nation, the sponsor of any undertaking must obtain the approval of the THPO prior to implementation or authorization of any undertaking by the sponsor.

LA 26-19, eff. December 20, 2019.

§ 1007. Prohibited Activities

No Cultural Property may be visited or investigated on Cherokee lands, except those Cultural Properties designated as open to the public within Cherokee Lands; nor may any person alter, damage, excavate, deface, destroy or remove, any Cultural Properties on Cherokee Lands. No person may sell, purchase, exchange or transport cultural resources from Cherokee Lands.

LA 26-19, eff. December 20, 2019.

§ 1008. Exceptions

The prohibitions against alteration, collection, disturbance, excavation or removal of cultural resources do not apply to Cherokee Nation employees, or other Tribal agents, engaged in official business relating to activities approved in accordance with Cherokee Nation law, THPO Office policies and procedures, or by such persons holding a Permit under the Act.

LA 26-19, eff. December 20, 2019.

§ 1009. Permit Requirements

Any person proposing to visit or inspect cultural resources, undertake cultural resources inventory, alter, collect, excavate or remove cultural resources, who is not excepted pursuant to § 1008 of this Act, shall apply to the THPO for a Cherokee Nation Cultural Resources Permit for the proposed activity. The THPO shall make recommendations for issue of a permit to any qualified individual, subject to appropriate terms and conditions. The Secretary of Natural Resources is authorized to issue all permits under this Act.

LA 26-19, eff. December 20, 2019.

§ 1010. Suspension and Revocation of Permits

A. The Secretary of Natural Resources may suspend or revoke a permit without

cause upon determining that continuation of a permit is not in the interests of the Cherokee Nation. Such a revocation is made without liability to the Cherokee Nation, its agents and employees. Such revocations shall not prejudice the ability of the permit holder to hold or obtain other permits provided that:

1. None of the terms or conditions of a permit have been willfully violated;
2. The permit-holder has not engaged in activities prohibited by this Act; and
3. The permit-holder has not engaged in activities that resulted in the prior suspension of a permit.

LA 26-19, eff. December 20, 2019.

§ 1011. Criminal Penalties

Any person violating the provisions of § 1007 except for those exempted under § 1008 of this Act shall be subject to the following criminal penalties:

1. Any person who:
 - a. Engages in cultural resources inventory activities except under the authority of a permit, or
 - b. Who alters, collects, damages, destroys, excavates or removes cultural resources except under the authority of a permit, shall upon conviction, be guilty of a misdemeanor and subject to punishment of up to one year in jail and a fine of up to one thousand dollars (\$1,000.00) per violation and forfeiture of removed items.

LA 26-19, eff. December 20, 2019.

§ 1012. Regulations, Procedures, Standards and Guidelines

The Secretary of Natural Resources shall develop, promulgate, publish and implement such regulations, procedures, standards and guidelines necessary to implement the requirements of or to achieve the purpose of this Act.

LA 26-19, eff. December 20, 2019.

§ 1013. Severability

The provisions of this Act shall be severable and if any part of any provision hereof shall be held invalid by a court of Cherokee Nation or federal court, such holding shall not affect or impair the validity of any remaining provisions of this Act to any other person, court, or circumstance.

LA 26-19, eff. December 20, 2019.

§ 1014. 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.

LA 26-19, eff. December 20, 2019.

§ 1015. 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.

LA 26-19, eff. December 20, 2019.