

# An Act

## Legislative Act 28-13

### ACT REPEALING LA#15-96 AND AMENDING LA#32-04, "THE CHEROKEE NATION LIMITED LIABILITY COMPANY ACT"; AMENDING CONVERSION OF FOREIGN CORPORATIONS

#### BE IT ENACTED BY THE CHEROKEE NATION:

#### Section 1. Title and Codification

This act shall be known as the "The Foreign Company Conversion Act of 2013".

#### Section 2. Purpose

The purpose of this act is to repeal LA#15-96, which was not repealed when LA#32-04 was enacted and therefore two LLC Acts exist, and to amend LA#32-04, the Cherokee Nation Limited Liability Company Act, specifically §802, to allow foreign companies to convert to Cherokee Nation companies.

#### Section 3. Legislative History

Legislative Act #15-96 and #32-04, as amended by LA#11-10 and #23-12.

#### Section 4. Repealed

From here forward, Legislative Act #15-96 shall be repealed by Legislative Act #32-04 and only one Limited Liability Company Act shall exist.

#### Section 5. Amendments

Section 802 of LA-32-04 shall be amended as follows:

#### 802. CONVERSION OF CERTAIN ENTITIES TO A LIMITED LIABILITY COMPANY

(a) As used in this section, the term "business other entity" means a ~~domestic~~ corporation, statutory trust, business trust, real estate investment trust, common law trust, other unincorporated business or entity (including a partnership, whether general or limited), or foreign limited liability company.

(b) Any business other entity may convert to a domestic limited liability company by complying with subsection (h) of this section and filing with the Office of the Principal Chief in accordance with Section 106 of this chapter articles of conversion to a limited liability company that have been executed in accordance with Section 205 of this chapter, to which

shall be attached articles of organization that comply with Sections 203 and 106 of this chapter and have been executed by one or more authorized persons in accordance with Section 205 of this chapter.

(c) The articles of conversion to a limited liability company shall state:

- (1) The date on which the ~~business~~ other entity was first formed;
- (2) The name of the ~~business~~ other entity immediately prior to the filing of the articles of conversion to limited liability company; and
- (3) The name of the limited liability company as set forth in its articles of organization filed in accordance with subsection (b) of this section.

(d) Upon the filing in the Office of the Principal Chief of the articles of conversion to a limited liability company and the articles of organization, the ~~business~~ other entity shall be converted into a domestic limited liability company and the limited liability company shall thereafter be subject to all of the provisions of this Act, except that notwithstanding Section 202 of this chapter, the existence of the limited liability company shall be deemed to have commenced on the date the ~~business~~ other entity was formed.

(e) The conversion of any ~~business~~ other entity into a domestic limited liability company shall not be deemed to affect any obligations or liabilities of the ~~business~~ other entity incurred prior to its conversion to a domestic limited liability company or the personal liability of any person incurred prior to such conversion.

(f) When any conversion shall have become effective under this section, for all purposes of the laws of the Cherokee Nation, all of the rights, privileges and powers of the ~~business~~ other entity that has converted, and all property, real, personal and mixed, and all debts due to such ~~business~~ other entity, as well as all other things and causes of action belonging to such ~~business~~ other entity, shall be vested in the domestic limited liability company and shall thereafter be the property of the domestic limited liability company as they were of the ~~business~~ other entity that has converted, and the title to any real property vested by deed or otherwise in such ~~business~~ other entity shall not revert or be in any way impaired by reason of this Act, but all rights of creditors and all liens upon any property of such ~~business~~ other entity shall be preserved unimpaired, and all debts, liabilities and duties of the ~~business~~ other entity that has converted shall thenceforth attach to the domestic limited liability company and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.

(g) Unless otherwise agreed or otherwise provided by any laws of the Cherokee Nation applicable to the converting ~~business~~ other entity, the converting ~~business~~ other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such ~~business~~ other entity and shall constitute a continuation of the existence of the converting ~~business~~ other entity in the form of a domestic limited liability company. When an ~~an~~ ~~business~~ other entity has been converted to a limited liability company pursuant to this section, the limited liability company shall, for all purposes of the laws of the Cherokee Nation, be deemed to be the same entity as the converting ~~business~~ other entity.

(h) Prior to filing the articles of conversion of an business other entity to a limited liability company with the Office of the Principal Chief, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the business other entity and the conduct of its business or by applicable law, as appropriate, and an operating agreement shall be approved by the same authorization required to approve the conversion.

(i) The converting other entity should give written notice of the conversion to the jurisdiction in which the converting other entity was formed, provided, however, the failure to give such written notice shall not affect the other entity's conversion into a domestic limited liability company.

**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.

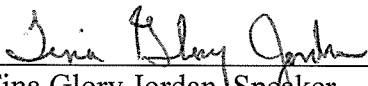
**Section 7. Emergency declared**

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.

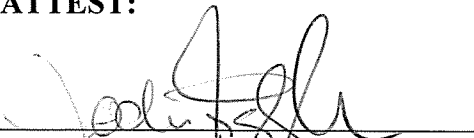
**Section 8. Self-Help Contributions**

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 12<sup>th</sup> day of November, 2013.

  
\_\_\_\_\_  
Tina Glory Jordan, Speaker  
Council of the Cherokee Nation

**ATTEST:**

  
\_\_\_\_\_  
Jodie Fishinghawk, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 14<sup>th</sup> day of Nov., 2013.



Bill John Baker, Principal Chief  
Cherokee Nation

**ATTEST:**



Chuck Hoskin, Jr., Secretary of State  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

Tina Glory Jordan	<u>Yea</u>	Janees Taylor	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Dick Lay	<u>Yea</u>
David Walkingstick	<u>Yea</u>	Cara Cowan Watts	<u>Absent</u>
Jodie Fishinghawk	<u>Yea</u>	Harley Buzzard	<u>Yea</u>
Janelle Lattimore Fullbright	<u>Yea</u>	Curtis G. Snell	<u>Yea</u>
David W. Thornton, Sr.	<u>Absent</u>	Victoria Vazquez	<u>Yea</u>
Don Garvin	<u>Yea</u>	Julia Coates	<u>Yea</u>
Lee Keener	<u>Absent</u>	Jack D. Baker	<u>Yea</u>
Frankie Hargis	<u>Yea</u>		

**ADMINISTRATIVE  
CLEARANCE**

**Dept/Program:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Executive Director:**

*[Signature]* 9/10/13

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Treasurer: (Required:  
Grants/Contracts/Budgets)**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Government Resources:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Administration Approval:**

*[Signature]* 10/11/13

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**LEGISLATIVE CLEARANCE:**

**Legal & Legislative Coordinator:**

*[Signature]* 10/14/13

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Standing Committee & Date:**

*[Signature]* 10/31/13

**Chairperson:**

*[Signature]*

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Returned to Presenter:** \_\_\_\_\_

Date \_\_\_\_\_

**Cherokee Nation  
Act/Resolution Proposal Form**

Act       Resolution

**TITLE:** \_\_\_\_\_

**DEPARTMENT CONTACT:** \_\_\_\_\_

**RESOLUTION PRESENTER:** \_\_\_\_\_

**COUNCIL SPONSOR:** \_\_\_\_\_

**NARRATIVE:**

The purpose of this act is to amend Section 802 of LA#32-04, the Cherokee Nation Limited Liability Company Act to allow companies in addition to Cherokee Nation corporations to convert to Cherokee Nation limited liability companies. Also, the act would repeal LA#15-96, the original Cherokee Nation LLC Act, which was not repealed when LA#32-04 was enacted, resulting in two LLC Acts existing simultaneously.

This amendment would allow, for example, a company owned by the Cherokee Nation that was formed as an Oklahoma limited liability company or an Oklahoma corporation to convert to a Cherokee Nation limited liability company.

10-14-13 P02:30 RCVD