

An Act

Legislative Act 20-06

AN ACT AMENDING LA#30-89, LA#9-90, LA#1-94, LA#29-03, LA#37-03, AND LA#44-04; RELATING TO GAMING WITHIN THE JURISDICTION OF THE CHEROKEE NATION; AMENDING TITLE 4 OF THE CHEROKEE NATION CODE ANNOTATED

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the Amendments to the Cherokee Nation Gaming Code and codified as Title 4, Section 1 through 49 as amended of the Cherokee Nation Code Annotated.

Section 2. Purpose

The Purpose of this Act is to amend the "Cherokee Nation Tribal Gaming Act," to Clarify the activities that fall under the jurisdiction of the Cherokee Nation Gaming Commission and to provide for the regulation of Class III gaming within the Territorial jurisdiction of the Cherokee Nation as defined in Title 20 Section 25 of the Cherokee Nation Code that has been compacted for with the State of Oklahoma and/or authorized by legislative acts.

Section 3. Legislative History

The Cherokee Nation enacted Legislative Act 30-89, on April 8, 1989, known as the "Cherokee Nation Tribal Gaming Act," to regulate the conduct of gaming owned and operated by the Cherokee Nation.

On October 22, 1990, the Cherokee Nation amended the Gaming Act with Legislative Act 9-90, to comply with P.L. 100-497, October 17, 1988, 102 Stat. 2467, and to establish the Cherokee Nation Gaming Commission.

On the 11th day of April, 1994, the Cherokee Nation Amended the Gaming Act with LA 1-94.

On the 2nd day of October, 2003, the Cherokee Nation amended the Act with LA 29-03 to authorize and provide for the regulation of Class III gaming which had been compacted for with the State of Oklahoma and/or authorized by legislative action.

On the 10th day of November, 2003, the Cherokee Nation amended the Gaming Act with LA 37-03 to clarify the activities that fall under the jurisdiction of the Cherokee Nation Gaming Commission.

On the 15th day of November, 2004, the Cherokee Nation amended the Gaming Act by LA 44-04 to provide technical amendments to the Gaming Act and provide for the regulation of Class III gaming that had been compacted for with the State of Oklahoma and/or authorized by legislative acts.

Section 4. Substantive Provisions

The following sections of the Cherokee Nation Gaming Act As amended shall read as follows:

§ 2. Purpose

The purpose of this Act is:

- A. To regulate the conduct of all gaming owned and operated by the Cherokee Nation, or its officially licensed agents, on tribal lands of the Cherokee Nation as defined in Section 4(D), (hereafter referred to as Cherokee Nation) in compliance with Public Law 100-497, October 17, 1988, 102 Stat. 2467 and in compliance with any Tribal-State Compact between the Cherokee Nation and the State of Oklahoma or that the State has authorized by enactment.
- B. To provide a basis under tribal law for the regulation of all gaming by the Cherokee Nation adequate to shield it from organized crime and other corrupting influences; to insure that Cherokee Nation is the sole beneficiary of the gaming operation; and to assure that gaming is conducted fairly and honestly by the tribe, its agents and the players; and to implement the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ("IGRA"), ~~and~~ the regulations of the National Indian Gaming Commission (NIGC") at 25 C.F.R. Parts 500 et seq. and in compliance with any Tribal-State Compact between the Cherokee Nation and the State of Oklahoma or that the State has authorized by enactment.
- C. To authorize and regulate all forms of ~~Class III~~ gaming as defined by this Act and the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. and for which the Nation has duly compacted with the State of Oklahoma or the State has authorized by enactment.
- D. To authorize and regulate gaming on lands other than the lands defined in Section 4 (C) and (D) of this Title, for which the Nation has compacted with the State of Oklahoma or the State has authorized by enactment. PROVIDED, however that license requirements and regulations promulgated by the Cherokee Nation Gaming Commission shall be in addition to and shall not conflict with any and all regulations issued by the Oklahoma Horseracing Commission.

§ 4. Definitions

For the purposes of this Title:

- A. The "Nation" means the Cherokee Nation.
- B. "Person" means any natural individual, company, partnership, firm, joint venture, association, Limited Liability Company, (LLC), corporation, estate, political entity of the Cherokee Nation, or other identifiable entity to which this title can be applied.
- C. "Restricted Individual Lands" means any lands the title to which is either held in trust by the United States for the benefit of any individual citizen of the Nation or held by any individual citizen of the Nation subject to restriction by the Nation over which the Nation exercised governmental power.
- D. "Indian Lands" means land over which Cherokee Nation exercises governmental power and that is either.
 - 1. Held in trust by the United States for the benefit of Cherokee Nation or any member of Cherokee Nation; or
 - 2. Held by Cherokee Nation or any member of Cherokee Nation which is subject to restriction by the United States against alienation.
- E. "Class I Gaming" means social games solely for prized of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
- F. "Class II Gaming" means bingo or lotto (whether or not electronic, computer, or other technological aids are used) when players:
 - 1. Play for prizes with cards bearing numbers or other designations;
 - 2. Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and

3. Win the game by being the first person to cover a designated pattern on such cards.

If played in the same location as bingo or lotto, Class II gaming includes (a) pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo; and (b) non-banking games that (1) state law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and (2) players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

Class II Gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

G. The term "license" means:

1. In connection with a gaming facility, a license issued by the Cherokee Nation Gaming Commission authorizing, the operation of a gaming facility at a particular location owned and operated by the Nation; and
2. In connection with an individual person, a license issued by the Cherokee Nation Gaming Commission authorizing the person to be engaged as an employee or management official of a licensed gaming facility

H. Class III Gaming includes all those forms of gaming that are not Class I or Class II gaming.

I. "Agent" and "officially licensed agent" means: any entity / corporation, wholly or majority owned by the Nation, its parent, subsidiary, and/or affiliate companies, or any entity designated by the Tribal Council.

J. "Jurisdiction" means: all lands owned by the tribe over which the Nation exercises commercial and/or governmental authority or control, regardless of whether title is held in fee-simple or trust or restricted status as defined in Section 4 (C) & (D) of this Title.

§ 11. Establishment of Cherokee Nation Gaming Commission

The Cherokee Nation Gaming Commission is hereby established as a part of the Executive Branch of the government of the Nation in order to carry out the Nation's responsibilities under IGRA and the NIGC's regulations at 25 C.F.R. § 501 et seq. and to implement the provisions of this Act. Provided, however, all actions and regulations of the Cherokee Nation Gaming Commission shall be consistent with the provisions of this Act, all other laws and resolutions of the Cherokee Nation Council, and Constitution of Cherokee Nation and any laws and/or regulations or regulating agencies established by the State of Oklahoma either: 1) pursuant to a compact on lands other than the lands defined in Section 4 (C) and (D) of this Title.; or 2) applicable to facilities operating: a) under the jurisdiction of the Oklahoma Horse Racing Act, Okla. Stat. tit. 3A, § 200 et. seq.; or b) in connection with a horse racing facility under a license granted under the authority of Okla. Stat. tit. 3A, § 262.

§ 12. Membership

- A. The Cherokee Nation Gaming Commission shall consist of no less than three (3) members of the Cherokee Nation to be appointed by the Principal Chief of the Cherokee Nation and approved by the Tribal Council of the Cherokee Nation
- B. To be eligible to serve as a commissioner, a person must
 1. be at least 25 years of age;
 2. have a bachelor's degree from a college or university or its equivalent;
 3. be of high moral character or integrity;

4. never have been convicted of a criminal offense other than misdemeanor traffic offenses; and
 5. be physically able to carry out the duties of office.
- C. The Principal Chief shall, at the time of making the initial appointments and also at the time of making each appointment to fill a vacancy on the Commission as provided herein, designate one member to serve as Chairman, one member to serve as Vice Chairman and one member to serve as Secretary.
- D. The terms of office of the Commission shall be three years; provided, however, that in order to stagger the expiration of terms of office, one of the first group of Commission members appointed hereunder shall be appointed for a term of one year, one for a term of two years and one for a term of three years. Provided, however, the amendments set forth in this Legislative Act 1-94 shall not affect the terms of office of the persons who are members of the Cherokee Nation Gaming Commission as of the effective date of this Act.
- E. Commission members shall serve their terms of office free from political influence from any department of the government of the Nation and may be removed only for cause, after a hearing by the ~~Judicial Appeals Tribunal~~ Cherokee Nation Supreme Court District Court under such rules and procedures as prescribed by the Council. A petition for removal for cause may be brought by a vote of the majority of Tribal Council Members, or the Principal Chief. Except as authorized under the Constitution of the Cherokee Nation, no member of the Cherokee Nation Gaming Commission shall, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any political organization, candidacy or other political purpose. No member of the Cherokee Nation Gaming Commission shall be a member of a committee of a partisan political club, or a candidate for nomination or election to any paid tribal office, or take part in the management or affairs of any tribal political party or in any political campaign, except to exercise his or her right as a citizen privately to express his or her opinion and to cast his or her vote.
- F. In the event of a vacancy in the membership of the Commission, the Principal Chief shall, within twenty days of the occurrence of the vacancy, fill such vacancy for the unexpired term, subject to confirmation by a majority vote of the Council.
- G. ~~The Commission shall have the power to generally oversee the licensing of all gaming operations and the conduct of such operations in order to ensure compliance with this Act and any regulations adopted and orders issued by the commission. The Cherokee Nation Gaming commissioners shall each execute a conflict of interest provision disclosing potential unethical situations.~~
- H. ~~The Cherokee Nation Gaming Commission shall be charged with the sole responsibilities of administering and enforcing the provisions of this Act.~~
- I. ~~It shall be the responsibility of the Commission to promulgate regulations necessary to administer the provisions of this Act. The duties shall include, but not be limited to the following:~~
1. ~~procedures for conducting background investigations of key employees and primary management officials (as those terms are hereinafter defined);~~
 2. ~~procedures for issuing licenses to such employees and officials;~~
 3. ~~procedures for resolving gaming disputes between the gaming public and a licensed gaming facility;~~
 4. ~~procedures ensuring compliance with NIGC regulations requiring payment of annual fees to, and filing quarterly reports with, the NIGC; and~~
 5. ~~procedures ensuring that all gaming facilities are in compliance with the federal Privacy Act procedures as required by NIGC regulations.~~
- ~~Such regulations may require licensees to adopt gaming dispute resolution procedures, subject to Commission approval, with a right of appeal to the Cherokee Nation Gaming Commission. In resolving such gaming disputes on appeal or otherwise the Cherokee Nation Gaming Commission may receive written statements, affidavits, or~~

other materials from the parties to said dispute or their witnesses and in its discretion may order one or more hearings to take oral statements or testimony. Any decision of the Cherokee Nation Gaming Commission in resolving such gaming disputes shall be in writing and may be appealed by the parties to the Judicial Appeals Tribunal by filing a written notice of appeal and a statement of the grounds therefore within 30 days of the date of receipt of the Commission's decision in accordance with 4 CNCA § 19. All decisions, on appeal by the Judicial Appeals Tribunal, and any decision by the Cherokee Nation Gaming Commission for which a timely Notice of Appeal has not been filed, shall be final.

J. The duties of the Cherokee Nation Gaming Commission shall include, but not be limited to, the following:

1. Printing and making available application forms for initial and renewal licenses, as well as any other licenses or tax return forms.
2. Supervising the collection of all fees and taxes prescribed by this Act.
3. Processing all license applications and tax returns which will be submitted under oath.
4. Issuing of licenses.
5. Determining applicable license fees.
6. Auditing all returns.
7. Reviewing all records, documents and anything else necessary and pertinent to the financial accountability of licensees or enforcement of any provision of this ordinance.
8. Reviewing for approval or denial any application or licensee, and limiting conditions to suspend or restrict any licensee.
9. Proposing fines as needed.

§ 12.1 Powers of the Gaming Commission

A. The Commission shall have the power to generally oversee the licensing of all gaming operations and the conduct of such operations in order to ensure compliance with this Act and any regulations adopted and orders issued by the commission. The Cherokee Nation Gaming commissioners shall each execute a conflict of interest provision disclosing potential unethical situations.

B. The Cherokee Nation Gaming Commission shall be charged with the sole responsibilities of administering and enforcing the provisions of this Act.

C. It shall be the responsibility of the Commission to promulgate regulations necessary to administer the provisions of this Act. The duties shall include, but not be limited to the following:

1. procedures for conducting background investigations of key employees and primary management officials (as those terms are hereinafter defined);
2. procedures for issuing licenses to such employees and officials;
3. procedures for resolving gaming disputes between the gaming public and a licensed gaming facility;
4. procedures ensuring compliance with NIGC regulations requiring payment of annual fees to, and filing quarterly reports with, the NIGC; and
5. procedures ensuring that all gaming facilities are in compliance with the Federal Privacy Act procedures as required by NIGC regulations.

Such regulations may require licensees to adopt gaming dispute-resolution procedures, subject to Commission approval, with a right of appeal to the Cherokee Nation Gaming Commission. The dispute resolution procedures shall not apply to disputes governed by the regulations of the Oklahoma Horse Racing Commission. In resolving such gaming disputes on appeal or otherwise the Cherokee Nation Gaming Commission may receive written statements, affidavits, or other materials from the parties to said dispute or their witnesses and in its discretion may order one or more hearings to take oral statements or testimony. Any decision of the Cherokee Nation Gaming Commission in resolving such gaming disputes shall be in writing and may be appealed by the parties to the ~~Judicial Appeals Tribunal~~ Cherokee Nation Supreme Court by filing a written notice of appeal and a statement of the grounds therefore within 30 days of the date of

receipt of the Commission's decision in accordance with 4 CNCA § 19. All decisions on appeal by the ~~Judicial Appeals Tribunal~~ Cherokee Nation ~~Supreme Court~~ District Court, and any decision by the Cherokee Nation Gaming Commission for which a timely Notice of Appeal has not been filed, shall be final.

D. The duties of the Cherokee Nation Gaming Commission shall include, but not be limited to, the following:

1. Printing and making available application forms for initial and renewal licenses, as well as any other licenses or tax return forms.
2. Supervising the collection of all fees and taxes prescribed by this Act.
3. Processing all license applications and tax returns which will be submitted under oath.
4. Issuing of licenses.
5. Determining applicable license fees.
6. Auditing all returns.
7. Reviewing all records, documents and anything else necessary and pertinent to the financial accountability of licensees or enforcement of any provision of this ordinance.
8. Reviewing for approval or denial any application or licensee, and limiting conditions to suspend or restrict any license.
9. Proposing fines as needed.

§ 21. License required for gaming facilities

Any agent of the Cherokee Nation conducting public gaming operations for the benefit of the Cherokee Nation on property of the Cherokee Nation, -including lands within the jurisdiction of the Cherokee Nation other than the lands defined in Section 4 (C) and (D) of this Title, shall be required to have and display prominently an appropriate, valid and current license issued pursuant to provisions of this Act.

Conducting public gaming operations without the lawful written approval and licensure of the Cherokee Nation Gaming Commission is a crime, and is punishable under 21 CNCA § 10. Cherokee Nation law enforcement authorities have the sole authority to enforce criminal laws concerning gaming.

Section 6. Provisions as Cumulative

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


Section 7. 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 8. 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.


Enacted by the Council of the Cherokee Nation on the 14th day of August, 2006.


Meredith Frailey, Speaker
Council of the Cherokee Nation

ATTEST:



Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 21st day of AUGUST, 2006.



Chad Smith, Principal Chief
Cherokee Nation

ATTEST:


Melanie Knight, Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Audra Smoke-Conner	<u>YEA</u>	Melvina Shotpouch	<u>YEA</u>
Bill John Baker	<u>YEA</u>	Meredith A. Frailey	<u>YEA</u>
Joe Crittenden	<u>YEA</u>	John F. Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Cara Cowan Watts	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	Buel Anglen	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	William G. Johnson	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>		

Cherokee Nation Act/Resolution Proposal Form

Act Resolution

<u>ADMINISTRATIVE CLEARANCE</u>	
Program/Project Manager: <i>Nason Morton</i> 6/14/06	
Signature/Initial	Date
Department Director:	
Signature/Initial	Date
Executive Director: <i>A. Neal</i> 6-13-06	
Signature/Initial	Date
Controller: (if needed)	
Signature/Initial	Date
Government Resources: <i>Rita Maurin</i> 6/16/06	
Signature/Initial	Date
Administration Approval: <i>Delia Knight</i> 6/19/06	
Signature/Initial	Date
<u>LEGISLATIVE CLEARANCE:</u>	
Legislative Aide: <i>glo</i> 6.19.06	
Signature/Initial	Date
Standing Committee & Date: <i>Ruler</i>	
Chairperson: <i>Tracy</i>	
Signature/Initial	Date
Returned to Presenter: _____	
Date	

TITLE:

DEPARTMENT CONTACT: Nason N. Morton

RESOLUTION PRESENTER: Nason N. Morton

SPONSOR: Cara Cowan Watts

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

The Purpose of this Act is to clarify the jurisdiction of the Cherokee Nation Gaming Authority over all gaming owned and operated by the Cherokee Nation, or its officially licensed agents, on lands of the Cherokee Nation including gaming operations in compliance with any Tribal-State Compact between the Cherokee Nation and the State of Oklahoma or that the State has authorized by enactment.

These amendments to the Cherokee Nation gaming Act are needed to ensure consistent application of rules and regulations covering employees engaging in gaming activities in gaming facilities owned and operated by the Cherokee Nation, or its officially licensed agents.

The amendments will help to establish duties and requirements that are consistent to all gaming activities owned and operated by the Cherokee Nation, or its officially licensed agents, and will provide to the Cherokee Nation consistent rules or conduct and regulation of Gaming employees.

06-14-06P01:55

GR.
RCVD
JM

06-19-06 P1:55