



Legislation Details (With Text)

File #: 15-059 **Version:** 2 **Name:** FINANCIAL SECURITY AND STABILITY ACT OF 2015

Type: Legislative Act **Status:** Passed

File created: 7/15/2015 **In control:** TRIBAL COUNCIL

On agenda: 7/30/2015 **Final action:** 9/16/2015

Enactment date: 9/14/2015 **Enactment #:** LA-14-15

Title: AN ACT RELATING TO DEPOSIT AND INVESTMENT OF FUNDS, AMENDING LA-13-85, CHAPTERS 2 AND 5; AND DECLARING AN EMERGENCY

Sponsors: Janees Taylor

Indexes: Funds, Treasurer

Code sections: Title 62 - Public Finance

Attachments: 1. LA-14-15.PDF

Date	Ver.	Action By	Action	Result
9/16/2015	2	OFFICE OF THE CHIEF	Signed	
9/14/2015	2	TRIBAL COUNCIL	Approved	Pass
8/17/2015	2	RULES COMMITTEE	Approved and Forwarded to Council	Pass
7/30/2015	1	RULES COMMITTEE	Withdrawn	

AN ACT RELATING TO DEPOSIT AND INVESTMENT OF FUNDS, AMENDING LA-13-85, CHAPTERS 2 AND 5; AND DECLARING AN EMERGENCY
BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the "Financial Security and Stability Act of 2015". This shall be codified as Title 62, Chapter 2.

Section 2. Purpose

The purpose of this act is to amend LA#13-85, specifically chapters 2 and 5, relating to the deposit and investment of funds, in accordance with Article X of the Cherokee Nation Constitution.

Section 3. Legislative History

Legislative Act #13-85, which repealed LA 1-80, LA 3-81, LA 1-82, LA 1-83, and LA 1-84, and replaced LA 3-76, LA 7-76, and LA 1-77.

Section 4. The following section shall be added to Title 62, Chapter 2

Chapter 2. Deposit Investing of Funds.

Section 201a. Definitions.

A. Cherokee Nation shall mean the government, including all commissions, boards, and

committees.

B. Donations shall be any monies, assets, property, contributions, gifts, bequests, endowments and/or other donations made to or given to the Cherokee Nation, upon acceptance by the Treasurer.

C. Financial Institution shall be an entity or depository whose primary business and function focuses on dealing with financial services and transactions, such as investments, loans and deposits. A financial institution shall include Federal Deposit Insurance Corporation (FDIC) insured banks, National Credit Union Association (NCUA) insured credit unions and other financial institutions whose activities are controlled or regulated by federal law and/or federal regulations or regulators, including but not limited to the U.S. Securities and Exchange Commission.

D. Financial Instrument shall be any negotiable asset or instrument with monetary value. Allowable financial instruments shall include, but not be limited to, Demand Deposits, Certificates of Deposit, Certificates of Deposit Account Registry (CDARS), Insured Cash Sweeps (ICS), Savings Accounts, nationally rated investment grade U.S. corporate bonds, repurchase/reverse repurchase agreements, U.S. Treasuries and U.S. government securities and those issued by its agencies and instrumentalities, and Institutional Money Market Funds whereby those funds are comprised of a majority of allowable Financial Instruments as described above.

E. Funds shall include all funds of the Cherokee Nation, including grants, donations, dividends, and any other funds held by the Cherokee Nation for the operation of the government.

F. Invest shall mean to place Cherokee Nation funds in a financial instrument held by a Financial Institution on behalf of the Cherokee Nation for the purpose of safekeeping.

Section 5. LA 13-85, §201 shall be amended as follows:

Section 201. Requirements.

A. Any funds in the custody of the Cherokee Nation shall be ~~deposited~~ invested only in allowable financial instruments safe kept in an approved a depository financial institution, except for funds kept on hand for operation, such as petty cash funds and change funds. There shall be ~~one principal depository, provided for by law, and as many subsidiary depositories financial institutions~~ as may be necessary for the efficient ~~regulation and~~ management of tribal business. ~~Said subsidiary depositories shall be approved in accordance with section 203 of this act.~~

B. Investments shall be made with judgment and care, under circumstances then prevailing, not for speculation, but for investment, considering the probable safety of the capital as well as the probable fees to be incurred and/or income to be derived.

C. Investments of Cherokee Nation funds shall be made in accordance with written policies established by the Treasurer.

D. Donations may be invested in separate accounts as directed or allowed.

Section 6. LA 13-85, §202 shall be amended as follows:

Section 202. Principal Depository. Financial Institutions.

~~The Principal depository for funds under the control of the Cherokee Nation shall be the 1st National Bank of Tahlequah.~~

~~The Cherokee Nation Treasurer shall notify the Tribal Council and the Principal Chief on at least a quarterly basis of all Financial Institutions serving the Cherokee Nation.~~

Section 7. LA 13-85, §203 shall be amended as follows:

Section 203. Subsidiary Determination of Financial Institutions.

~~A. Subsidiary depositories used for investment of Financial Institutions for tribal funds held by the Cherokee Nation shall may be determined by competitive bidding and/or other qualifying factors. If bid, Ssaid bidding and selection process of investment Financial Institutions Depositories shall be conducted by the Controller, under the review of the Secretary-Treasurer on a regular basis. The following criteria may be used in the determination of Financial Institutions:~~

- ~~1. The institution's ability to best protect the Cherokee Nation's funds;~~
- ~~2. The institution offering the highest interest rate on the funds, and/or;~~
- ~~3. The institution's ability to reduce the cost to the Cherokee Nation for investing the funds.~~
- ~~4. The size of the financial institution is adequate for the amount of funds to be invested.~~
- ~~5. The Financial Institution's ability to allow electronic access to all transaction and portfolio reports.~~

~~(B). Other subsidiary depositories may be designated for the purposes of efficient regulation and management of tribal business in a particular locale. Subsidiary depositories provided for under this subsection shall maintain a checking/general banking relationship with the Cherokee Nation and shall be approved, upon recommendation of the Controller, by resolution from the Council. Said reolution shall contain the name of the financial institution, the purpose of the depository, and the names of those persons authorized to conduct transactions with said depository.~~

Section 8. LA 13-85, §204 shall be amended as follows:

Section 204. Control of ~~deposited~~ funds.

Any funds ~~deposited~~ invested by the Cherokee Nation shall be under the control of the ~~Secretary-Treasurer~~ who may, at his or her discretion, delegate fiduciary responsibilities to the Controller of the Cherokee Nation. ~~The Council may from time to time establish laws and regulations governing said funds.~~

Section 9. LA 13-85, §205 shall be amended as follows:

Section 205. Protection of invested ~~deposited~~ funds.

A. No funds under the control of the Cherokee Nation shall be ~~deposited~~ invested with in any

Financial Institution unless the Financial Institution is insured by said the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Association (NCUA) or the Federal Savings and Loan Insurance Corporation (FSLIC) and/or the Financial Institution's activities are controlled or regulated by federal law and/or federal regulations or regulators, including but not limited to the U.S. Securities and Exchange Commission.

B. Collateralization. No funds in excess of \$100,000.00 current FDIC or NCUA insurance maximums shall be deposited and/or invested in a single Financial Institution unless said funds are collateralized either by and/or invested directly into obligations and/or bonds with a minimum of a AA which contain an investment grade rating as rated from a nationally recognized rating firm, such as Standard and Poor's, Moody's or Fitch, or local, state, U.S. Government securities, and those issued by its agencies and instrumentalities, and Cherokee Nation securities. Collateralized funds shall be secured and pledged to the Cherokee Nation via joint custody receipts for the full amount of said funds. Nothing herein shall prevent direct investment held in allowable Financial Instruments.

Section 10. The following sections shall be added to Title 62, Chapter 2:

Section 206. Term of investments of funds.

Funds invested pursuant to this act, excluding Demand Deposits, shall be for a period not to exceed 5 years, provided that funds may be invested for a longer term upon consent of the longer term by the Executive and Finance Committee of the Council.

Section 207. Investment of judgment funds and trust funds.

Any investment of judgment funds and trust funds shall be pursuant to 25 U.S.C. 162a. The use or distribution of said funds shall be in accordance with 25 CFR 87.1 et. seq.

Section 208. Specific rights reserved.

The Treasurer of the Cherokee Nation reserves the right, within statutory authority and limitations, to provide to the Secretary of the Interior the investment direction of the judgment funds and trust funds.

Section 11. LA 13-85, Chapter 5, §§501-506 shall be repealed as follows and reserved for future use:

~~Section 501. Investment of judgment funds.~~

~~Any investment of judgment funds shall be pursuant to 25 U.S.C. 162a. The use or distribution of said funds shall be in accordance with 25 CFR 87.1 et. seq.~~

~~Section 502. Specific rights reserved.~~

~~The Council of the Cherokee Nation reserves the right, within statutory authority and limitations, to recommend to the Secretary of the Interior preferred financial institutions for the investment of judgment funds.~~

~~Section 503. Investment of non-restricted tribal funds.~~

~~Surplus Funds from tribal operations may be invested by the Controller, upon direction and with the consent of the Executive and Finance Committee of the Council, in accordance with sections 203a, 504, 505 and 506 of this act.~~

~~Section 504. Term of investments of tribal funds.~~

~~Tribal funds invested pursuant to section 503 of this act shall be for a period not to exceed 120 days, provided that funds~~

~~may be invested for a longer term upon approval of the Executive and Finance Committee of the Council.~~

~~**Section 505. Selection of investment institution.**~~

~~The Controller shall, upon determination of the amount of surplus funds, solicit bids from financial institutions for the purpose of investing said funds. The Controller shall use the following criteria in the determination of the successful bidding institution:~~

- ~~1. The institution offering the highest interest rate on the funds, and;~~
- ~~2. In the event that one or more institutions offer the same highest rate of interest, the funds shall be equitably distributed among those institutions, provided that if the amount of funds are not sufficient to distribute among several institutions, those institutions offering the highest rate of interest shall be selected by the earlier postmark.~~

~~**Section 506. Protection of invested tribal funds.**~~

~~In the event that the invested funds in a single institution amount to more than \$100,000.00, said funds shall be collateralized as provided for in section 205(B) of this act, and provided further that the institution where said funds are invested shall secure and pledge to the Cherokee Nation joint custody receipts for the full amount of said funds.~~

Section 13. Provisions as cumulative

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

Section 14. 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 15. 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 16. 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.