



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: 07-018, Version: 1

A RESOLUTION AUTHORIZING A LIMITED WAIVER OF SOVEREIGN IMMUNITY OF WILL ROGERS DOWNS, LLC, CHEROKEE NATION ENTERPRISRES, LLC, CHEROKEE NATION BUSINESSES, LLC AND THE CHEROKEE NATION

WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in behalf of the Cherokee people;

WHEREAS, the Cherokee Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America;

WHEREAS, pursuant to Legislative Act #23-04, as amended by Legislative Act #16-05, the Principal Chief is authorized to execute waivers of sovereign immunity for business transactions of Cherokee Nation-owned business entities, including those business entities participating in the United States Small Business Administration 8(a) Business Development Program, 13 CFR 124;

WHEREAS, Will Rogers Downs, LLC (WRD), Cherokee Nation Enterprises, LLC (CNE), and Cherokee Nation Businesses, LLC (CNB) are for-profit businesses organized under the Laws of the Cherokee Nation and, as such, enjoy sovereign immunity from suit under tribal and federal law;

WHEREAS, pursuant to Resolution #76-05, a limited waiver of sovereign immunity was granted of WRD, CNE and the Cherokee Nation in order to meet the requirements of the Conditional Organization license, 2005-OHRC-003 as granted by the Oklahoma Horse Racing Commission (OHRC);

WHEREAS, the Cherokee Nation deems it both necessary and appropriate that WRD be permitted to apply for an organizational license and conduct pari-mutuel horse racing pursuant to the Oklahoma Horse Racing Act, Title 3A § 200 et seq.;

WHEREAS, the OHRC has granted a Conditional Organization License, 2006-OHRC-014 that requires a limited waiver of sovereign immunity.

BE IT RESOLVED BY THE CHEROKEE NATION, the undersigned Principal Chief on behalf of the Cherokee Nation and WRD hereby waives the sovereign immunity of WRD from suit, liability, judgment and collection as to all parties and entities, as well as regulation by the OHRC with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack and the conduct of gaming pursuant to the State Tribal Gaming Act; and all matters ancillary thereto; and

BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, the undersigned Principal Chief on behalf of the Cherokee Nation and CNE, successor by merger to Cherokee Nation Enterprises, Inc, hereby waives the sovereign immunity of CNE from suit, liability, judgment and collection as to all parties and entities, as well as regulation by the OHRC, with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack and the conduct of gaming pursuant to the State Tribal Gaming Act, and all matters ancillary thereto; and

BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, that the undersigned Principal Chief on behalf of the Cherokee Nation and CNB, hereby waives the sovereign immunity of the CNB from suit, liability, judgment and collection, with respect to those monies paid or to be paid into trust or escrow to satisfy the obligations or ability of WRD or CNE to pay or maintain horseman's purse monies, disputed gaming revenues and other funds required to be held by WRD as an OHRC licensed racetrack/gaming facility pursuant to the Oklahoma Horse Racing Act, the State Tribal Gaming Act and all related rules and regulations; and

BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, that the undersigned Principal Chief on behalf of the Cherokee Nation hereby waives the sovereign immunity of the Cherokee Nation from suit, liability, judgment and collection, with respect to those monies paid or to be paid into trust or escrow to satisfy the obligations or ability of WRD or CNE to pay or maintain horseman's purse monies, disputed gaming revenues and other funds required to be held by WRD as an OHRC licensed racetrack/gaming facility pursuant to the Oklahoma Horse Racing Act, the State Tribal Gaming Act and all related rules and regulations; and

BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, that the Cherokee Nation agrees that the Limited Waivers Contained herein shall not be repealed, rescinded or modified in any manner until all obligations of WRD, the Cherokee Nation, CNB and CNE are fully satisfied, with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack/gaming facility and all matters ancillary thereto. That the above waivers are limited to the duration of the period in which WRD is licensed as a horse racing or gaming facility and up to 5 years thereafter to accommodate any applicable statute of limitations; and

BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, that, as to the Cherokee Nation, CNB and CNE, the above waivers are specifically limited to actual or liquidated damages. Recovery of punitive and/or exemplary damages against CNB, CNE or the Cherokee Nation are not allowed; and

BE IT FINALLY RESOLVED BY THE CHEROKEE NATION, that, except as specifically set forth herein, these Waivers shall in no manner or in any respect, operate or be construed to operate to waive or otherwise diminish the sovereign immunity of the Cherokee Nation.

CERTIFICATION

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the ____ day of _____, 2007, having ____ members present, constituting a quorum, by the vote of _____ yea; _____ nay; _____ abstaining.