



Legislation Text

File #: 13-015, Version: 2

**AN ACT RELATING TO THE AMENDMENT OF THE CHEROKEE NATION TRIBAL NOTARIES
PUBLIC CODE, TITLE 49 CHEROKEE NATION CODE ANNOTATED
BE IT ENACTED BY THE CHEROKEE NATION:**

Section 1. Title and Codification

Example: This act shall be known as the 2013 Amendment to the Cherokee Nation Tribal Notary Code and codified as Title 49, Chapter, Sections 1-10 of the of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this Act is to codify and clarify the duties of a tribal notary and distinguish the difference between tribal notary and state notary laws.

Section 3. Legislative History

Title 49 Cherokee Nation Code Annotated 1991

Section 4. Substantive Provisions

Chapter 1-General Provisions

Section

1. Appointment
2. Oath, signature, bond and seal-Fees
3. Blanks for bond and oath
4. Repealed
5. Official seal-Types of seals-Authentication of documents-Penalties
6. Authority of Notary
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9. Vacancy
10. Statute of limitations

11. Oklahoma State Law Notary Provisions Not Applicable to Cherokee Nation Notaries Public

§ 1. Appointment

The Principal Chief **through or** his designee, **the Secretary of State of the Cherokee Nation**, shall appoint and commission in the Cherokee Nation notaries public, who shall hold their office for four (4) years. An applicant for a notary

commission shall be eighteen (18) years of age or older and a citizen of the Cherokee Nation. All notary commissions shall run in the name and by the authority of the Cherokee Nation, be signed by the Principal Chief and sealed with the Seal of the Cherokee Nation. Said commissions shall not be attested.

§ 2. Oath, signature, bond and seal-Fees

A. Before entering upon the duties of his **or her** office every notary public so appointed and commissioned shall file in the office of the court clerk the commission issued to **him to the notary, his the notary's** oath of office, **his** official signature, an impression of **his the notary's** official seal, and a good and sufficient bond to the Cherokee Nation, in the sum of One Thousand Dollars (\$1,000.00), with one or more sureties to be approved by the court clerk, conditioned for the faithful performance of the duties of his office.

B. Such commission, bond, and oath shall be recorded in the office of such court clerk, as clerk of the district court. The commission shall be returned to the notary. The bond and oath shall be retained by the court clerk to be filed and recorded in his office. The filing of such commission, bond, official signature, and impression of official seal in the office of the court clerk shall be deemed sufficient evidence to enable the court clerk to certify that the person so commissioned is a notary public, duly commissioned and acting as such, during the time such commission is in force. Upon the filing of his commission with the court clerk, every notary public shall pay to the court clerk the sum of Twenty-Five Dollars (\$25.00) to be held and accounted for by the court clerk as fees of his office.

C. Applications for renewal shall follow the same procedure except the fee shall be Twenty Dollars (\$20.00).

§ 3. Blanks for bond and oath

Blanks for bonds and oaths of office shall be furnished with the commission by the Principal Chief.

§ 4. Repealed

§5. Official seal

Every notary shall provide a **metal** notarial seal containing his **or her** name and county of residence **and the seal shall also state it is a notary seal for the Cherokee Nation**. Each notary shall authenticate all his **or her** official acts, attestations and instruments with this seal; and he **or she** shall add to his **or her** official signature the date of expiration of his **or her** commission as such notary public. If any notary public shall neglect or refuse to attach to his **or her** official signature the date of expiration of his **or her** commission he **or she** shall be deemed guilty of a crime, and upon conviction thereof shall be fined in any sum not exceeding Fifty Dollars (\$50.00).

§ 6. Authority of notary

Notaries public shall have authority within the Cherokee Nation to make the proof and acknowledgment of deeds and other instruments of writing required to be proved or acknowledged; to administer oaths; to demand acceptance or payment of foreign or inland bills of exchange and promissory notes, and protest the same for non-acceptance of nonpayment, as the same may require, and to exercise such other powers and duties as by law of nations and commercial usage may be performed by notaries public. A notary may not notarize his **or her** own signature.

§ 7. Record of protests

In cases of protests for banks, notaries shall keep a register thereof in a book provided for that purpose by the bank, and the notary shall not be required to deliver such register to the court clerk, but shall leave the same in the possession of such bank.

§ 8. Official record

Every notary shall keep a fair record of his **or her** official acts, and if required shall give a certified copy of any record in his office, upon the payment of the fees therefor **therefore**.

§ 9. Vacancy

If any notary die, resign, be disqualified or remove from the Nation, his record and official public papers of his **or her** office, shall, within thirty (30) days be delivered to the court clerk.

§10. Statute of limitations

No suit shall be instituted against any such notary or his **or her** securities more than three (3) years after the cause of action accrues.

§ 11. Oklahoma State Notary Provisions Not Applicable to Cherokee Nation Notaries Public

a. The State of Oklahoma Provisions regarding notaries public does not apply to the Cherokee Nation notaries public.

b. There is no limitation on the number of absentee ballots a Cherokee Nation notary can notarize.

c. There is no restriction in a tribal notary assisting the voters in signing up for an absentee ballot.

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 and the upcoming 2013 Tribal Elections, 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 9. 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.