



**NCA 16-080**

**CLASSIFICATION: #17. ECONOMIC DEVELOPMENT**

**A LAW OF THE MUSCOGEE (CREEK) NATION CREATING A NEW CHAPTER NINE UNDER MCNCA TITLE 17, ENTITLED "MYSKOKE LOAN FUND BOARD"**

**Be it enacted by the National Council of the Muscogee (Creek) Nation:**

**SECTION ONE. FINDINGS. The National Council finds that:**

A. Fostering economic development is a priority for the Nation and entrepreneurial opportunities should be encouraged to benefit the citizens of the Nation.

B. A Community Development and Financial Institution ("CDFI") program is an avenue for economic development, growth and sustainability to promote opportunities to members of the Muscogee (Creek) Nation by financing community businesses, promoting financial literacy, offering technical support and generally increasing access to credit, capital, and financial services.

C. By establishing the Myskoke Loan Fund to administer said goals as a CDFI, the Nation can further support economic development.

D. To be eligible to receive funding from certain sources, an oversight board must be established to provide independent guidance and decisions regarding Myskoke Loan Fund activities.

E. The Nation's laws regarding economic development are codified in Title 17 of the Muscogee (Creek) Nation Code.

**SECTION TWO. NEW LAW. The following new law shall be codified in Title 17 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for the Code of Laws of the Muscogee (Creek) Nation, the Office of the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated in this law in order to be consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:**

**TITLE 17. ECONOMIC DEVELOPMENT**

**CHAPTER 9. MVSKOKE LOAN FUND BOARD**

**§ 9-101. Establishment and Policy of Board**

The Mvskoke Loan Fund Board is hereby established and is authorized to oversee and manage the Community Development and Financial Institution ("CDFI") program of the Nation to further the Nation's goals of economic development, growth, sustainability, access to capital, credit, and financial services and financial literacy.

**§ 9-102. Board Composition**

**A. Membership and appointment.** The Mvskoke Loan Fund Board shall consist of five (5) members, two (2) of whom shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution and three (3) nominated and confirmed by the National Council by a Tribal Resolution.

- 1. Professional Qualifications.** The Mvskoke Loan Fund Board members shall possess five years of work experience and one of the following professional and/or entrepreneurial qualifications:
  - a. Bachelor's Degree in Business, Finance, and/or Economics, or a Bachelor's Degree with an emphasis in Business, Finance, and/or Economics;
  - b. Certified Public Accountant Certification;
  - c. Juris Doctorate;
  - d. Post-Graduate Degree with commensurate executive administrative experience; or
  - e. Five years of additional executive administrative financial or banking industry business experience.
  
- 2. Restrictions.** Any conviction of a crime involving financial malfeasance, finding of liability in a civil matter involving financial malfeasance, or finding of responsibility in a Muscogee (Creek) Nation internal investigation regarding financial malfeasance shall disqualify any person from eligibility to serve as an Mvskoke Loan Fund Board member. Under no circumstances, to avoid conflicts of interests, may any Board member also be a member of any other Board of the Nation including boards of Chartered Communities.

**B. Term.** All such appointments shall be for a period of three (3) years to commence on the date the appointed member is confirmed by Tribal Resolution, at the expiration of which the office shall be vacant without holdover.

**C. Ex-Officio Members.** There shall be two Ex-Officio Members on the Mvskoke Loan Fund Board. One Ex-Officio Member shall be also a member of the Business, Finance, and Justice Committee of the National Council and selected by said committee. The other Ex-Officio Member shall be the Secretary of the Nation. Ex-Officio Members shall have no voting rights, nor shall either be counted for the purpose of establishing a quorum. The Ex-Officio Members shall act only as liaisons between the Mvskoke Loan Fund Board and the National Council and Executive Branch, respectively.

**D. Vacancies.** In the event that a position of a Board member nominated by the Principal Chief becomes vacant, the Principal Chief shall make a new nomination, which shall be confirmed by the National Council by Tribal Resolution. In the event that a position of a board member nominated by the National Council becomes vacant, the National Council shall nominate and confirm a new appointment by Tribal Resolution.

**E. Stipends/Mileage.** Mvskoke Loan Fund Board Members, except the Ex-Officio Members, shall receive a stipend of \$200.00 for attendance at each duly called and regularly scheduled meeting of the Board. In the event an emergency meeting or other non-regularly scheduled meeting is necessary to address irregular business, each Board member, excepting the Ex-Officio Members, shall be eligible to receive an additional stipend amount of \$100.00. In any instance, regardless of the amount of meetings held per month, no board member will be eligible to receive greater than \$400.00 per month for meeting attendance. In addition to a stipend, Board Members, except Ex-Officio Members, shall receive mileage reimbursement for attendance at meetings and/or conferences relevant to the operation of a CDFI, provided the attendance is in furtherance of a valid function of the Board. All mileage reimbursement shall be at the Nation's current rate in accordance with the Nation's travel policies and procedure.

**F. Travel.** All travel beyond regularly scheduled, special or emergency meetings, such as travel for conference attendance, shall be limited to the contiguous lower states within the US. Under no circumstances will travel to international destinations or noncontiguous states or territories of the United States be approved or reimbursed.

**§ 9-103. General and specific authority, powers, and responsibilities of the Board and limitations thereon.**

The Board shall exercise all powers and responsibilities consistent with the best interests of the Nation, in accordance with federal law applicable to the establishment and operation of a community development financial institution and within the limits of responsible business judgment. Subject to the foregoing, the provisions of Section I of

this law and other applicable law, the Board shall have the authority to exercise the following powers and duties:

- A. Establish general policies for the organization, management and operation of the CDFI consistent with the requirements of the Community Development Financial Institutions Program of the United States (12 U.S.C. 4703; 12 C.F.R. Part 1805).
- B. Oversee the operation of the CDFI and exercise the powers set forth below without previous authorization or subsequent approval (except as otherwise provided).
- C. Establish and maintain effective operating and fiscal policies for the CDFI, including loan policies.
- D. Approve a strategic plan, annual operating plans, and annual organizational charts.
- E. Supervise and direct the Chief Executive Officer of the CDFI, based on the description of duties for the position formally adopted and make personnel recommendations to the Secretary of the Nation and the Principal Chief.
- F. Utilize, improve, maintain, operate and manage, in the ordinary course of the business, all interests in real property held by the CDFI. Provided, however, that any acquisition of real property or the encumbrance of that real property, including leasehold interests, shall be subject to the prior approval of the National Council. Subject to applicable law, and with approval of relevant policies by the National Council, the CDFI may encumber and foreclose on real property of its borrowers.
- G. Acquire, hold, own, manage, operate, exchange, deal in and dispose of all CDFI personal property in the ordinary course of business.
- H. Pledge or grant security interests in the CDFI's personal property, cash, accounts receivable and other assets of the CDFI as collateral for any contractual obligation so long as the sovereign immunity of the Nation is not impacted.
- I. Acquire, hold, own, use, license, and lease, any interest in and to inventions, improvements, patents, licenses, formulas, privileges, processes, copyrights, trade names, trademarks and all applications therefor, provided that all such acquisitions shall be taken in the name of the Nation.
- J. Enter into, make, perform and carry out or cancel and rescind, contracts for any lawful purpose pertaining to the CDFI's business; provided, however that no contract or other transaction between the CDFI and any of the Directors, officers or

employees of the CDFI or an elected officer or employee of the Nation or any District, or between the CDFI and any corporation, partnership, firm or other legal entity in which one or more of the foregoing persons has a financial interest, directly or indirectly, shall be valid for any purpose, unless the entire interest of such persons is fully disclosed to the Board and the proposed contract or transaction is approved, ratified or confirmed by the affirmative vote of a majority of the entire Board who have no interest in the transaction.

K. Apply for and receive grants in support of the purposes of the CDFI in coordination with any grant writing programs or departments of the Nation.

L. Borrow funds, subject to the express limitations that the CDFI shall not incur obligations in excess of its ability to pay. The Nation shall not be liable for the debts or obligations of the CDFI.

M. Designate and approve all depositories used for the deposit of funds of the CDFI.

N. Elect officers, appoint agents, and select independent auditors, independent legal counsel, management companies and other advisors and consultants as may be needed from time to time by the CDFI, and define their duties and fix their compensation.

O. Confer with the Department of Commerce of the Muscogee (Creek) Nation from time to time for the purposes of coordination and consistency of practices.

P. Approve annual CDFI budgets and operating plans prior to the commencement of each fiscal year.

Q. Recommend amendment or revision of this law to the National Council whenever deemed appropriate to improve the operation and management of the CDFI.

R. Loan Policy Notice and Comment. Prior to promulgating a final loan policy, the CDFI shall publish the policy in proposed form. The proposed loan policy shall be provided directly to the Secretary of the Nation, all members of the National Council, the Office of the Attorney General and, upon written request, to any other interested person or interested office or agency of the Nation. The proposed loan policy shall be accompanied by a notice stating that the CDFI will accept written comments for a period of sixty (60) days following the date of publication. As provided in this section, "publish" shall mean publication in a newspaper of general circulation within the Nation and posting in each of the Nation's District offices. In the event of significant public interest with respect to a loan policy, the CDFI may hold one or more public hearings prior to finalizing a loan policy. Notice of a public hearing shall be given as set forth above, and

in addition shall be mailed directly to any person submitting comments on the proposed loan policy and providing a mailing address. The CDFI shall review all comments received by the close of the comment period including all comments received during public hearings, prior to finalizing the loan policy.

**§ 9-104. Removal of Board Members**

A. The members of the Mvskoke Loan Fund Board shall not be subject to removal from office at the will and pleasure of the Principal Chief or National Council, but may be removed from the Board only for any one or more of the following causes set forth in a written petition and proved by a preponderance of the evidence in the hearing provided for in paragraph C of this subsection:

1. dishonesty, gross misconduct or incompetence in office;
2. willful neglect of duty as evidenced by excessive absences from duly convened meetings of the Board.
3. conviction of a felony under federal, state, or Tribal law;
4. committing any act or engaging in any activity which would constitute a criminal offense involving dishonesty or moral turpitude under federal, Tribal or state law;
5. directly or indirectly engaging in any activities or transactions constituting a conflict of interest under the laws of the Muscogee (Creek) Nation or any other applicable laws, rules, or regulations; or
6. being employed by the Muscogee (Creek) Nation or by any other board or authority of the Muscogee (Creek) Nation or by the Creek Nation Foundation, Inc.

B. A petition for removal hereunder may be filed by the Principal Chief or any Committee of the National Council with jurisdiction over the Board's affairs upon a majority vote for removal by such Committee.

C. Any Board member accused of any of the foregoing causes shall be given a copy of the petition charging him or her and afforded the right to respond to the charges and present witnesses and other evidence in his or her defense at a hearing convened by the National Council. The petition shall state the cause or causes for removal with sufficient particularity to put the accused Board Member on notice of the nature of the charges against him or her. Both the petitioner and the Board Member so accused shall have the right to be represented by an attorney at the hearing, provided the Board Member shall be responsible for paying his or her own attorney fees and other expenses in defending the petition. The petitioner shall be represented by the Attorney General or, upon the request of the petitioner, a special prosecutor appointed by the Attorney General. The National Council shall preside over the removal hearing and receive the evidence. Removal of the accused Board Member shall require a

majority vote of the National Council. The decision of the National Council shall be final.

**§ 9-105. Meetings of the Board; Open Meeting Requirements**

A. Regular meetings of the Mvskoke Loan Fund Board shall occur monthly at a designated place within the jurisdiction of the Muscogee (Creek) Nation. The date and time of such regular meetings shall be set by the Chairman, provided that proper notice is given according to the provisions herein. The Board shall adopt procedures not inconsistent with this subsection governing its meetings, which shall, address, among other matters, the election of a Chairman and a Vice-Chairman of the Board.

B. The Chairman (or in his or her absence, the Vice-Chairman) shall give notice of the time and place of any regular monthly meeting of the Mvskoke Loan Fund Board in writing to each Board Member including Ex-Officio Members, the Attorney General, the Principal Chief, and the Speaker of the National Council, at least five (5) days before such meeting. Service of said notice may be effected by first class U.S. mail, facsimile or hand-delivery, and shall be effective on the date of delivery to the official entitled to such notice or to the office of said official's regular place of business in the case of hand-delivery or facsimile transmission; or, in the case of notice sent by U.S. mail, two (2) days after the notice, in a properly addressed envelope with sufficient postage thereon, is deposited in the U.S. mail. The date of the postmark on such envelope shall be conclusive evidence of its date of deposit in the U.S. mail. In addition, such notice of the regular monthly meeting shall be posted at the Tribal Complex in Okmulgee, Oklahoma, at least three (3) days before such regular meeting.

C. Special meetings of the Mvskoke Loan Fund Board may be held when circumstances require such a meeting. Special meetings may be called by the Chairman, or by a majority of the Board. Notice of special meetings shall be in writing and served to each Board Member, the Principal Chief, and the Speaker of the National Council, and at least forty-eight (48) hours before such meeting. Service of such notices shall be hand-delivery or facsimile and shall be effective upon the date of delivery to the official entitled to such notice or to the office of said official's meeting shall be posted at the Tribal Complex in Okmulgee, Oklahoma at least forty-eight (48) hours before such special meeting.

D. Emergency meetings may only be held in the most extraordinary circumstances. Emergency meetings may be called by giving telephone or facsimile notice to each member of the Board, the Principal Chief, and the Speaker of the National Council, provided that no action in an emergency meeting shall have any valid or binding effect unless ratified at the next regular or special meeting of the Mvskoke Loan Fund Board.

E. All meetings of the Mvskoke Loan Fund Board shall require a majority of

the Board members to be present to constitute a quorum and conduct business.

F. All meetings of the Mvskoke Loan Fund Board shall be public meetings and therefore open to the public, except for executive sessions. The Board may exclude any person from an executive session except the Principal Chief, Second Chief, Speaker, Second Speaker, any National Council Representative, and a representative from the Attorney General's Office. The Board may go into executive session only (1) to discuss confidential financial and personal information regarding an applicant to the Fund, (2) to discuss personnel issues and matters of confidentiality that relate to one or more specific employees, or (3) to meet and consult with the counsel on confidential legal matters. All other matters shall be discussed audibly to all persons in the room in open session. Executive sessions may only be held after they have been posted as an item on the agenda for the meeting in which the executive session is held. The general subject of the executive session must be described in the posted agenda, and no action by the Board may occur in executive session. It shall be unlawful for any person present in a meeting held in executive session to make public, or otherwise disclose or describe to any person not so present, any discussion or statements made during such executive session. Violation of any of the open meetings requirements of this subsection shall constitute a criminal offense punishable by up to six (6) months imprisonment and/or a Five Hundred and No/100 Dollars (\$500.00) fine. Persons who violate this subsection shall be subject to expulsion and banishment from the Nation's territory.

G. Notice of meetings of the Mvskoke Loan Fund Board, either regular or special, shall contain an agenda which describes each item of business to be conducted. The agenda may include a line item for new business which shall allow the Board to discuss any new Mvskoke Loan Fund Board business which has arisen since the time of the posting of the agenda.

H. Minutes of all meeting of the Mvskoke Loan Fund Board, other than meetings or portions thereof held in executive session, shall be kept by a recording secretary.

I. Any action taken by the Board during a meeting convened or held in violation of this subsection shall be null and void.

**§ 9-106. Reporting Requirement of the Board**

The Mvskoke Loan Fund Board shall make written quarterly reports to the Principal Chief, Second Chief and the National Council on the affairs of the Board and those matters they are responsible for. The Board shall deliver special reports to the Principal Chief, Second Chief and the National Council upon the request of either.

**ENACTED** by the Muscogee (Creek) National Council on this 21<sup>st</sup> day of May, 2016.



**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



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Lucian Tiger III, Speaker  
National Council  
Muscogee (Creek) Nation

**CERTIFICATION**

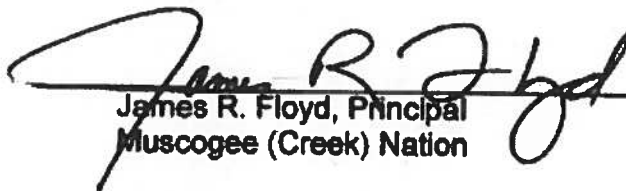
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Sixteen members attending this meeting on the 21<sup>st</sup> day of May, 2016 and that the above is in conformity with the provisions therein adopted by a vote of 16 in favor, 0 against, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



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Kristie A. Sewell, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 1<sup>st</sup> day of June, 2016 to the above Law, NCA 16-080 authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



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James R. Floyd, Principal  
Muscogee (Creek) Nation

