



## NCA 16-115

**CLASSIFICATION: #37. TRIBAL GOVERNMENT**

### **A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 37, § 2-203 TO ALTER THE DISTRIBUTION OF FUNDS**

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

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

A. This legislation is being proposed in order to authorize certain funds that have not been encumbered or utilized.

B. It is in the best interest of the Nation to change the percentages of the distribution of gaming revenue to fund the operations of the Tribal Government.

C. NCA 15-266 altered the distribution of funds for funding fiscal year 2016 Comprehensive Annual Budget.

D. NCA 15-266 mentions after FY 2016, the National Council may revisit the distribution percentages of Tribal Gaming Funds in order to determine the best and most effective distribution percentages for the future operation of the Nation.

**SECTION TWO. AMENDMENT.** This amendment shall be codified in Title 37, Chapter 2, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, 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 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 amendment, without further National Council approval:

**SECTION THREE. AMENDMENT.** MCNCA Title 37, §2-203 is hereby amended to read as follows:

#### **MCNCA TITLE 37. TRIBAL GOVERNMENT CHAPTER 2. BUDGET AND FINANCE**

**§ 2-203. Permanent Fund**

A. The Muscogee (Creek) Nation Permanent Fund. The Permanent Fund is established to assure the availability of necessary monies to help fund the Muscogee (Creek) Nation in future years. Twenty percent (20%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities, shall be deposited in the Muscogee (Creek) Nation Permanent Fund to be invested in an interest bearing account in accordance with Title 37, § 2-717, of the Muscogee (Creek) Nation Code. The principal of the Permanent Fund shall remain intact forever, subject to the following:

1. The Muscogee (Creek) Nation may borrow funds in the Permanent Fund when such loan is expressly approved for a specific purpose by Tribal Resolution enacted by the National Council in accordance with subsection E of this section.

B. Interest on Permanent Fund. The interest on the Permanent Fund shall be made available for appropriations by the National Council on a quarterly basis. The Controller shall provide the National Council with quarterly statements no later than the last day of the month following the end of a quarter that shall include the source and amount of interest earned during the previous quarter and the total amount of funds available for appropriations.

C. Contingency Reserve Account. The Muscogee (Creek) Nation Contingency Reserve Account is established, and a minimum balance of one million dollars (\$1,000,000) from Tribally owned and managed gaming operations shall be maintained in said account for potential use in the event that the Nation is determined to be liable for any fine or judgement related to Tribally owned and managed gaming operations and the National Council appropriates said funds for payment of said fines or judgements. During any disputes or litigation with any contract management firms, or in the event that determination is made by the Office of Principal Chief or the National Council as to the existence of any contingency or liability, specifically identified revenues from Tribally owned and managed gaming operations shall be, upon distribution to the Nation by the GOAB, placed into the interest bearing Contingency Reserve Account prior to any allocation to the Permanent Fund, Bingo Revenue Fund, Sinking Fund, or other allocations as established by any Muscogee (Creek) Nation law, until such contingency or liability is met or is determined to no longer exist. At such time, funds shall be removed from restriction, along with all accumulated interest income and shall be allocated as prescribed by applicable law of the Muscogee (Creek) Nation.

D. Economic Development and Land Acquisition Fund. There is hereby created an Economic Development Fund. Appropriations from this fund shall only be made pursuant to appropriation acts for the following purposes: purchase of property and any necessary incidental expenses associated with the purchase of the property, including without limitation title opinions, title insurance, surveys and realtors' fees, the purchase of economic enterprises, and start-up costs and other expenses necessary to

create and operate economic enterprises. The funding source for the Economic Development and Land Acquisition Fund shall be as follows:

1. All funds in the Sinking Fund established by the Travel Plaza Establishment and Financing Act of 1995 as of the effective date of this Act shall be deposited in the Economic Development and Land Acquisition Fund, provided that said Sinking Fund shall be eliminated immediately upon said transfer;
2. ~~Ten~~ Five percent (~~10~~5%) of net revenues from Tribal gaming operations which are not restricted or reserved by subsection C of this section shall be deposited in the Economic Development and Land Acquisition Fund on a monthly basis, provided that such gaming revenues shall not be available for appropriations for expenditures in the fiscal year in which such gaming revenues were generated and deposit of funds shall be retroactive to October 1, 2005;
3. That portion of economic development revenues specified in the Muscogee (Creek) Nation Tribal Trade and Commerce Authority Act, Title 17 § 2-112, shall be deposited in the Economic Development and Land Acquisition Fund on an annual basis, provided that such revenues shall not be available for appropriations for expenditures in the fiscal year in which such gaming revenues were generated.

E. Health Services Fund. Five percent (5%) of net revenues from Tribal gaming operations which are not restricted or reserved by subsection C of this section shall be deposited in the Health Services Fund on a monthly basis, provided that such gaming revenues shall not be available for appropriations for expenditure in the fiscal year in which such gaming revenues were generated.

1. Funds deposited into the Health Services Fund shall be available for appropriation to the Muscogee (Creek) Nation Health Services Administration for the Contract Health Department to provide services exclusively to citizens of the Muscogee (Creek) Nation.
2. Deposit of funds to the Health Services Fund shall be retroactive to October 1, 2005, and shall remain in effect for an indeterminate period. The Office of the Controller shall be required to transfer funds from the Economic Development and Land Acquisition Fund to effect the provisions of this Act.

F. Security for debt. Stocks, bonds, mutual funds, cash, certificates of deposit or any other secured United States governmental securities of the "Permanent Fund" within the General Fund of the Nation may be pledged as security for any debt issuance of the Muscogee (Creek) Nation that is expressly approved by Tribal Resolution; provided that until April 1, 2009, no more than eighty percent (80%) of the

total value of the Permanent Fund shall be subject to any such pledge or pledges at any time. Beginning April 2, 2009, no more than sixty percent (60%) of the total value of the Permanent Fund shall be subject to any such pledge or pledges at any time. Any such pledged security shall be separately designated as pledged for the specified debt, shall be maintained by the Nation in a separate investment account, and shall be unavailable for appropriation or expenditure for any other purposes so long as said pledged security remains collateral for the debt or debts. When collateralization is no longer required at sixty percent (60%) then the collateralization will return to twenty-five percent (25%).

G. **Capital Improvement Fund.** A Capital Improvement Fund is hereby established. Appropriations from this fund shall only be made pursuant to appropriation acts for the following purposes: constructing new buildings on property owned by the Muscogee (Creek) Nation; maintenance of existing buildings and facilities on property owned by the Muscogee (Creek) Nation; and other capital improvements for facilities and property owned by the Muscogee (Creek) Nation, including necessary equipment and furnishings. Five percent (5%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities shall be deposited in the Muscogee (Creek) Nation Capital Improvement Fund to be invested in an interest bearing account.

H. **Gaming Fund; appropriations.** The Gaming Fund is hereby established for appropriations and expenditures for the purposes specified in the Muscogee (Creek) Nation Gaming Code, Title 21, § 12-102. In addition to funds in the Gaming Fund as of the effective date of this Act, ~~forty~~ fifty percent (~~40~~50%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities shall be deposited in the Gaming Fund on a quarterly basis. Such funds shall be available for appropriations for expenditures to be made in the fiscal year immediately following the year in which the gaming revenues were generated.

I. **Debt Retirement Fund.** The Debt Retirement Fund is hereby established in order to insure and fund a prompt retirement of all financed debts of the Muscogee (Creek) Nation, exclusive of enterprise debt that may provide for debt retirement through generated program income. ~~Twenty~~ Fifteen percent (~~20~~15%) of the net revenues from current Tribal gaming operations which are not restricted or reserved by subsection C of this section for contingencies or liabilities, shall be deposited in the Debt Retirement Fund. Deposits shall be invested in an interest bearing account in accordance with Title 37, § 2-717. All principal and interest payments due from financed debts of the Muscogee (Creek) Nation that are budgeted annually in the Comprehensive Annual Budget or authorized for payment from this Fund by Tribal Resolution shall be made from the Debt Retirement Fund in accordance with the terms of the financing agreement. The Controller may transfer funds from the Debt Retirement Fund to the Permanent Fund, provided all financed debt of the Muscogee (Creek) Nation is satisfied, and provided further that sufficient reserves are in place for any anticipated financing.

J. Controller oversight. All expenditures from the funds established pursuant to this Act shall be subject to the oversight of the Controller of the Muscogee (Creek) Nation.

K. Net revenue. Solely for purposes of this section, with respect to any Tribal gaming operation and for any period of time, the term "net revenues" means gross gaming revenues less all amounts paid out as, or paid for, prizes; and less, without duplication (1) total gaming-related expenses and (2) all amounts of the gaming revenues required to be applied or retained by the Tribal gaming operations for compliance with any terms related to any indebtedness of the Nation secured by a pledge of any assets or revenues of the gaming operations.

L. For Fiscal Year of 2015 gaming revenue, Five Percent (5%) shall be deposited into the Economic Development and Land Acquisition Fund, regardless of the limitation set forth in §2-203(D)2. Ten Percent (10%) shall be deposited into the Debt Retirement Fund, regardless of the limitation set forth in §2-203(I). The remaining Fifteen percent (15%) from the Economic Development and Land Acquisition Fund, and Debt Retirement Fund, set forth in §2-203, shall be deposited in the Gaming Fund Account and shall be used in its entirety to fund the FY 2016 budget, regardless of the limitations.

This Subsection L. shall only apply to the time limit mentioned in this section unless extended by legislative act. After FY 2016, the National Council may revisit the distribution percentages of Tribal Gaming Funds in order to determine the best and most effective distribution percentages for the future operation of the Nation.

**M. For Fiscal Year of 2017 gaming revenue, Fifteen Percent (15%) shall be deposited into the Permanent Fund, regardless of the limitation set forth in §2-203(A). Ten Percent (10%) shall be deposited into the Health Services Fund, regardless of the limitation set forth in §2-203(E).**

**This section shall only apply to the time limit mentioned in this section unless extended by legislative act. After FY 2017, the National Council may revisit the distribution percentages of Tribal Gaming Funds in order to determine the best and most effective distribution percentages for the future operation of the Nation.**

**SECTION FIVE. EFFECTIVE DATE.** This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

**ENACTED** by the Muscogee (Creek) National Council on this 19<sup>th</sup> day of July, 2016.

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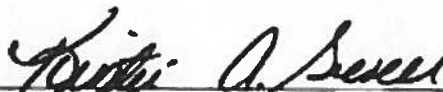
**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



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

**CERTIFICATION**

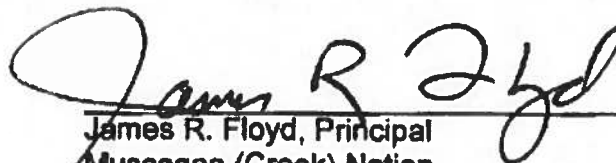
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Thirteen members attending this meeting on the 19<sup>th</sup> day of July, 2016 and that the above is in conformity with the provisions therein adopted by a vote of 12 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 20<sup>th</sup> day of July, 2016 to the above Law, NCA 16-115 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

