



### RECONSIDERATION OF NCA 10-194

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-194" is a true extract from the November 8, 2010, Emergency Session Journal of the Muscogee (Creek) National Council.

**AND THAT,** NCA 10-194 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 11, §5-102 and §6-404 AND AMENDING MCNCA TITLE 11, §5-103 ENTITLED "Unlawful assembly", §6-402, ENTITLED "Violators; Chartered Communities" AND §6-403, ENTITLED "Violators; individuals" was presented to the National Council acting as a Council as a Whole and was approved in Emergency Session on November 8, 2010, National Council by a vote of 14 in favor, 2 against, 0 abstention.

**AND THAT,** Said legislation was returned as a Veto with objections by the Principal Chief on November 22, 2010 and said objections have been entered at large in the Journal of the Muscogee (Creek) National Council;

**AND THAT,** The National Council taking action reconsider the Bill to **OVER-RIDE** the Veto at the Regular Session on December 18, 2010, in accordance with the Constitution, Article VI, Section 6(a), requires a (2/3) vote of the full membership, which consists of Twenty-six members;

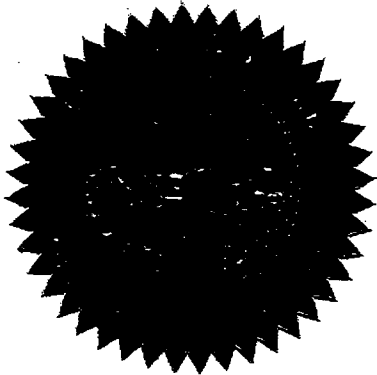
**AND THAT,** The record of vote reflects there were Twenty-six present with a vote of 21 in favor, 5 against, 0 abstentions;

**THEREFORE, BE IT KNOWN,** under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-194 is hereby recorded as a "VETO OVER-RIDE" on this 20<sup>th</sup> day of December, 2010.

ShaRee Edmondson, Acting Recording Secretary  
National Council  
Muscogee (Creek) Nation

### CERTIFICATION OF APPROVAL

**IN WITNESS WHEREOF,** I, the Presiding Officer of the Muscogee (Creek) National Council have hereto attached my signature this 20<sup>th</sup> day of December 2010.



Roger Barnett, Speaker  
National Council  
Muscogee (Creek) Nation

# VETO OVERRIDE



NCA 10-194

**CLASSIFICATION: #11. COMMUNITIES**

**A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 11, §5-102 and §6-404 AND AMENDING MCNCA TITLE 11, §5-103 ENTITLED "Unlawful assembly", §6-402, ENTITLED "Violators; Chartered Communities" AND §6-403, ENTITLED "Violators; individuals"**

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

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

A. MCNCA Title 11, §5-102 is an overly-broad law that could create an opportunity for abuse of the legal process.

B. MCNCA Title 11 §5-102 states that non-compliance with a Chartered Community's bylaws by its officers or members or by outside instigators could subject the same to imprisonment. MCNCA Title 11 §5-102 therefore needs to be repealed because the Criminal Code of the Nation already contains provisions that prohibits criminal activity within a Chartered Community and provides for punishment when criminal activity occurs. The bylaws adopted by a chartered community are not criminal laws and should not be treated as such where a non-criminal violation of the by-laws would be subject to imprisonment.

C. MCNCA Title 11, §6-404 is an unfair and harsh law where the gravity of the offense and the harshness of the penalty is disproportionate.

D. MCNCA Title 11, §6-404 has provisions allowing for Tribal Citizens to be prohibited from holding an elective or appointed office for a period of ten years for failure to complete an audit report which is cruel and unusual punishment.

E. The National Council has determined that MCNCA Title 11, §6-404 was enacted over fifteen years ago and is outdated and unduly infringes on Citizens of the Muscogee (Creek) Nation.

F. MCNCA Title 11, §6-402 does not provide adequate provisions for due process before revocation of a Tribal Charter of the Muscogee (Creek) Nation and therefore should be amended.

**SECTION TWO. AMENDMENT.** These amendments shall be codified in Title 11 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 Codification Committee 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 2003 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 11, §5-103 shall be amended to read as follows:

**§5-103. Unlawful assembly**

A. "Unlawful assembly" is hereby defined as a meeting of any group or groups of Chartered Community members who call that meeting an official Chartered Community meeting, knowing that it is contrary to the Chartered Community's by-laws.

B. Any and all actions taken at unlawful assemblies shall be null and void.

**SECTION FOUR. AMENDMENT.** MCNCA Title 11, Chapter 6., Subchapter 4., shall be amended to read as follows:

**§6-401. Applicability of Muscogee (Creek) Nation law**

All applicable criminal and civil laws, rules and regulations shall be applied when there has been determined to have occurred willful fraud, embezzlement or gross management of Chartered Community financial or physical resources.

**§6-402. Violators; Chartered Communities**

A. A Chartered Community that fails to comply with this chapter shall be subject to denial of Tribal grants until compliance is made.

B. Continued failure to maintain compliance with the provisions of this Chapter may be cause for suspension or revocation of the Tribal Charter.

C. Before revocation is proposed by Tribal Resolution, the Community subject to revocation shall be put on notice and given adequate time for compliance. Revocation shall only be authorized by a duly enacted law of the Muscogee (Creek)

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Nation after an investigation and recommendation has been made by the Attorney General.

**§6-403. Violators; individuals**

A. Funds. Any individual who, acting alone or in conjunction with another with malicious and criminal intent, having custody of Community funds and uses such funds for the private gain of any person or entity, shall be deemed guilty of embezzlement and upon conviction by a Court of the Muscogee Nation shall in addition to the punishment provided in the Criminal Code of the Muscogee Nation make restitution for the amount unlawfully distributed, and shall not be allowed to hold any office in the Community.

B. Property. Any individual who, acting alone or in conjunction with another with malicious and criminal intent, having custody of Tribal or Community property and uses such property for the private gain of any person or entity, shall be deemed guilty of embezzlement, notwithstanding Paragraph C of this Section, and upon conviction by a Court of the Muscogee Nation shall in addition to the punishment provided in the Criminal Code of the Muscogee Nation make restitution for the value of the property's use, and shall not be allowed to hold any office in the Community.


C. Paragraph B shall not restrict the use of Community Centers by churches, ceremonial grounds and other individuals or groups for educational activities, funerals and wakes, fundraising activities or other approved uses for Tribal citizens in accordance with Tribal laws and customs. The use of Community Centers for such purposes shall be subject to approval by the Community Board of Directors prior to such use in accordance with the terms and conditions established by the Community Board of Directors.

**SECTION FIVE. REPEALER.** MCNCA Title 11, §5-102. and §6-404., are repealed and abrogated as if never existed. There shall be no savings clause attached to this law or repealer of this law.

**SECTION SIX. 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 8th day of November 2010.

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

  
\_\_\_\_\_  
Roger Barnett, 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 twenty-six members with **Seventeen** members attending this meeting on the 8th day of November 2010, and that the above is in conformity with the provisions therein adopted by a vote of 14 in favor, 2 against, 0 abstentions, 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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ShaRee Edmondson, Acting Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this \_\_\_\_\_ day of \_\_\_\_\_, 2010, to the above Law, **NCA 10-194** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

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A. D. Ellis, Principal Chief  
Muscogee (Creek) Nation