



### RECONSIDERATION OF NCA 11-138 AFTER VETO

I, the undersigned, certify that the foregoing "Reconsideration of NCA 11-138 After Veto" is a true extract from the, July 30, 2011, Quarterly Session Journal of the Muscogee (Creek) National Council.


**AND THAT,** NCA 11-138 entitled, **A LAW OF THE MUSCOGEE (CREEK) NATION ADOPTING THE MORTGAGE ASSISTANCE PROGRAM POLICY** was presented to the National Council acting as a Council as a Whole and was approved in Quarterly Session on July 30, 2011, by a vote of 21 in favor, 0 against, 0 abstention.

**AND THAT,** Said legislation was returned as a Veto with objections by the Principal Chief on, August 12, 2011 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 August 27, 2011, 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-three present with a vote of 23 in favor, 0 against;

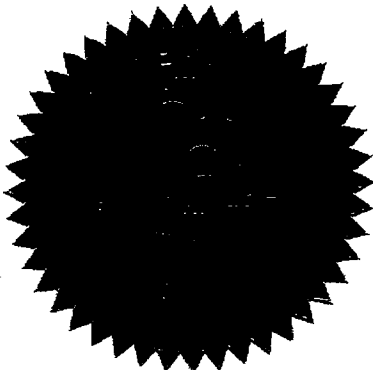
**THEREFORE, BE IT KNOWN,** under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, **NCA 11-138** is hereby recorded as a "VETO OVER-RIDE" on this 27<sup>TH</sup> day of August 2011.

  
\_\_\_\_\_  
ShaRee Hill, 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 29<sup>th</sup> day of August 2011.

  
\_\_\_\_\_  
Roger Barnett, Speaker  
National Council  
Muscogee (Creek) Nation





## Muscogee (Creek) Nation

PRINCIPAL CHIEF

*A.D. Ellis*

SECOND CHIEF

*Alfred Berryhill*

OFFICE OF THE PRINCIPAL CHIEF

PO Box 580

(HWY 75, Loop 56)

Okmulgee, OK 74447

918.732.7600

August 12, 2011

Muscogee (Creek) National Council  
Honorable Speaker Barnett

RECEIVED

AUG 12 2011

National Council Office

Dear Speaker Barnett:

I am returning NCA 11-138 herewith:

### **A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 11-138 TO THE NATIONAL COUNCIL AS A VETO WITH OBJECTIONS**

In accordance with the Constitution of the Muscogee (Creek) Nation, I, A. D. Ellis, Principal Chief of the Muscogee (Creek) Nation, do hereby return NCA 11-138, entitled "**A LAW OF THE MUSCOGEE (CREEK) NATION ADOPTING THE MORTGAGE ASSISTANCE PROGRAM POLICY**" as a **VETO** with the following objections:

**OBJECTION ONE:** Title 24, §2-102, C., of the code of the Muscogee (Creek) Nation provides that the Housing Division shall adopt housing program operating policies but will not be effective until approved by the Principal Chief and the National Council. The law further states that the Housing Division shall utilize housing program operating policies that are in effect until such time as it develops replacement policies and obtains approval of such policies by the Principal Chief and the National Council. The Principal Chief does not approve the policy passed as NCA 11-138.

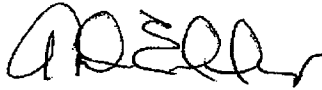
**OBJECTION TWO:** The proposed NCA 11-138 has been passed unilaterally by the National Council, with no collaboration or consultation of any sort with the Principal Chief or any representative or the Housing Division. This is a clear violation of Title 24, §2-102, C., of the code of the Muscogee (Creek) Nation and is an unconstitutional infringement on the powers of the Principal Chief and the Executive Branch by the National Council.

**OBJECTION THREE:** The proposed NCA 11-138 does not satisfy the eligibility requirements of HUD and federal regulations and is therefore unenforceable.

**OBJECTION FOUR:** A Foreclosure Prevention Assistance plan and policies is funded and administered by Social Services, the Nation should not create duplicate policies.

For the reasons outlined above, NCA 11-138 is hereby returned as a **VETO**.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. D. Ellis', with a stylized flourish at the end.

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

**DATED: August 12, 2011**

ADE/vb

# VETO OVERRIDE



NCA 11-138

**CLASSIFICATION: #24. HOUSING**

## **A LAW OF THE MUSCOGEE (CREEK) NATION ADOPTING THE MORTGAGE ASSISTANCE PROGRAM POLICY**

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

**SECTION ONE. NEW LAW.** The following new law shall be codified in Title 24 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 Codification Committee 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 24. Housing**  
**CHAPTER 8. Mortgage Assistance Program Policy**  
**SUBCHAPTER 1. Mortgage Down Payment and Closing Cost Program**

**§8-101. Introduction.**

The Housing Division of the Muscogee (Creek) Nation sets forth the following policy to be used in the administration of the Mortgage Down Payment and Closing Cost Program which shall be in compliance with the federal requirements as described in the Native American Housing and Self Determination Act (NAHASDA); and throughout 24 CFR, Part 1000.

**§8-102. Objectives.**

It is the policy of the Housing Division:

- A. To provide eligible Native American Families with affordable housing and the opportunity to become homeowners.

B. To give preference to applicants in accordance with the requirements of the Native American Housing Assistance and Self Determination Act (NAHASDA) and preferences established by the Muscogee (Creek) Nation.

C. To establish objective and reasonable policies for the participant criteria for the Mortgage Down Payment and Closing Cost Program.

**§8-103. Conditions Governing Eligibility.**

To be eligible for admission to the Mortgage Down Payment and Closing Cost Program, applicants must:

A. Be a first time buyer. First time home buyers shall be defined as not having ownership in their principal residence, or any other residence, either with a deed in their name, and/or a contract for a deed/mortgage or title for the property in the last 5 (five) years.

B. Not be an existing or former Mutual Help or NAHASDA Homebuyer/Lease with the Option to Purchase participant regardless of the housing service area. Exception; In the event of a divorce, the spouse not awarded the home, by Muscogee (Creek) Nation Housing Division may receive assistance dependent upon meeting all eligibility criteria.

C. Be willing to reside within the State of Oklahoma.

D. Qualify as a family as defined in the Admissions Policy.

E. Have a minimum annual family income of at least fifty (50%) percent of the national median income but does not exceed eighty (80%) percent of the national median income published by HUD. The definition of income will be the IRS definition of income.

F. Be 18 (eighteen) years of age or older.

G. Provide all requested information according to application checklist.

H. Sign all required forms including the consent for disclosure of information.

I. Meet all credit check and financial obligations for loan assistance from an approved and certified financial leader.

J. Co-applicants must provide a copy of a valid marriage license.

**§8-104. Participant Criteria.**

In determining program eligibility, it shall be the policy of the Housing Division to select participants as outlined below:

A. Ranking Preference. Applicants will be ranked in priority by approved date.

1. 4/4 Muscogee (Creek) large families (2 or more in household), or the elderly, disabled or handicapped.
2. ½ or more Muscogee (Creek) large families (2 or more in household), or the elderly, disabled, or handicapped.
3. Less than ½ Muscogee (Creek) large families (2 or more in household), or the elderly, disabled, or handicapped.
4. Single 4/4 Muscogee (Creek) Citizen.
5. Single less than 4/4 Muscogee (Creek) Citizen.
6. Other Indian Tribes

B. Program Eligibility. Participation will be income and credit based.

C. Grant Assistance. \$25,000.00 maximum.

D. The maximum cost for the home may not exceed the published Total Development Cost (TDC) provided by HUD.

E. Recipients that have received or are receiving grant assistance through the former MAP, now Mortgage Down Payment and Closing Cost Program.

F. Participant Selection Criteria. The Housing Division shall not select any applicant who:

1. Does not have the ability to meet mortgage obligation, as determined by a loan committee; or
2. Owes debts incurred from prior occupancy of a HUD-assisted home at this or any other housing entity; or
3. Has not been previously evicted for noncompliance from the Housing Division; or
4. Does not intend to use the home as the principal residence; or
5. Intentionally and falsely submitted applicant information; or
6. Does not complete an eight (8) hour homebuyer education course and obtain certificate; or
7. Is a non U.S. Citizen or has a spouse that is a non U.S. Citizen.

**§8-105. Public Disclosure.**

A. **Conflicts Prohibited.** No person who participates in the decision-making process or who gains inside information with regard to NAHASDA assisted activities may obtain personal or financial interest or benefit from such activities, except for the use of NAHASDA funds to pay salaries or other related administrative costs. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds there under, either for themselves or others with whom they have a business or immediate family ties. Immediately family ties are determined by Muscogee (Creek) Nation or Housing Division policy.

B. The conflict of interest provision does not apply in instances where a person who might otherwise be included under the conflict provision is low-income and is selected for assistance in accordance with the Housing Division's written policies for eligibility, admission and occupancy of families for housing assistance with Indian Housing Block Grant funds, provided there is no conflict of interest under applicable tribal or state law. The Housing Division must make a public disclosure of the nature of assistance to be provided and the specific basis for the selection of the person. The Housing Division shall provide the appropriate Area Office of Native American Programs with a copy of the disclosure before the assistance is provided to the person.

**§8-106. Verification and Documentation of Application Data.**

A. Information submitted by each applicant shall be verified.

B. Complete and accurate verified records consisting of, but not limited to the following, are to be maintained:

1. Proof of Citizenship Status of applicant(s).
2. Copies of Social Security Cards on all household members.
3. Verification of all income from all sources.
4. Income Tax return for most current filing
5. Verification of data submitted.

**§8-107. Types of Housing.**

A. Types of Housing which do not qualify for the Mortgage Down Payment and Closing Cost Program are as follows:

1. Homes shall be residential in nature and not be a commercial type (i.e. storefronts, mixed used buildings).
2. Real estate with more than one (1) residence.

3. Mobile Homes. A mobile home is defined as one that has or had any axles.

**§8-108. Homebuyer Requirements.**

- A. Home and termite inspection shall be required on all home purchases before closing.
- B. Homes built before 1978 must have Development Department approval.
- C. All closings will be coordinated through the Development Department.
- D. Must be able to qualify for an approximate loan amount of \$80,000.00.

**§8-109. Grant Repayment.**

The applicant shall sign a mortgage indicating that in the event the home ceases to be the primary residence or is sold within ten years from the date of the grant assistance, (refer to HUD's program Guidance 2005-10) the applicant shall be responsible for a partial repayment. The loan shall be reduced by 1/120<sup>th</sup> of the original principal balance of the loan for each month the loan is outstanding. Such monthly reductions shall take effect on the same day of the month the loan was originally made. In the event of foreclosure, the full amount of the principal remaining shall be due and payable.

**§8-110. Grievances.**

All grievances will be reviewed by the loan committee.

**SUBCHAPTER 2. Foreclosure Prevention Assistance**

**§8-201. Foreclosure Prevention Assistance.**

A. To prevent foreclosure, the Housing Division will directly pay the lender up to six (6) monthly mortgage payments on a one time basis. This assistance will be provided in situations created by financial loss beyond the control of the applicant.

B. Special Consideration for the prevention of foreclosure:

1. Must be Muscogee (Creek) Citizen
2. Must live in Muscogee (Creek) Nation jurisdictional boundaries
3. Up to \$5,000.00 on a one time basis
4. In the form of a grant.




**SECTION TWO. REPEALER.** All prior laws which are inconsistent with this Act are hereby repealed and shall have no force and effect from this date forward.

**SECTION THREE. 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 **30th** day of **July 2011.**

**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 **Twenty-two** members attending this meeting on the **30th day of July, 2011** and that the above is in conformity with the provisions therein adopted by a vote of **21** in favor, **0** against, **0** abstention, 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 Hill, Acting Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this \_\_\_\_\_ day of \_\_\_\_\_, 2011, to the above Law, **NCA 11-138** 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

