



RECONSIDERATION OF NCA 11-031 AFTER VETO

I, the undersigned, certify that the foregoing "Reconsideration of NCA 11-031" is a true extract from the February 26, 2011, Regular Session Journal of the Muscogee (Creek) National Council.

AND THAT, NCA 11-031 entitled, **A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 21, §1-103, CHAPTERS TWO, THREE, FIVE, SIX, EIGHT, ELEVEN AND §12-104 OF THE GAMING CODE TO CREATE A THREE PERSON GAMING COMMISSION** was presented to the National Council acting as a Council as a Whole and was approved in Regular Session on February 26, 2011, National Council by a vote of 12 In favor, 11 against, 0 abstention;

AND THAT, Said legislation was returned as a Veto with objections by the Principal Chief on March 11, 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 to reconsider the Bill to let the veto stand at the Regular Session on March 26, 2011, in accordance with the Constitution, Article VI, Section 6 (a), required a two-thirds (2/3) vote of the full membership, which consists of Twenty-Six members;

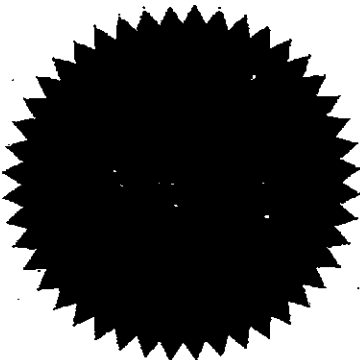
AND THAT, The record of vote reflects there were twenty-six present with a vote of 25 in favor, 0 against;

THEREFORE, BE IT KNOWN, under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 11-031 is hereby recorded as a "**VETO**" on this 28th day of March 2011.

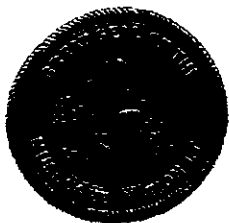
ShaRee Edmondson, Acting Recording Secretary
National Council
Muscogee (Creek) Nation

CERTIFICATION OF APPROVAL

IN WITNESS WHEREOF, I, the Presiding Officer of the Muscogee (Creek) National Council have hereto attached my signature this 28th day of March 2011.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation



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National Council Office
Muscogee (Creek) Nation

PRINCIPAL CHIEF

A.D. Ellis

SECOND CHIEF

Alfred Berryhill

March 10, 2011

OFFICE OF THE PRINCIPAL CHIEF

PO Box 580

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Okmulgee, OK 74447

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Muscogee (Creek) National Council
Honorable Speaker Barnett

Dear Speaker Barnett:

I am returning NCA 11-031 herewith: **A MESSAGE OF THE PRINCIPAL CHIEF EXPRESSING HIS OBJECTIONS TO NCA 11-031, A RESOLUTION OF THE NATIONAL COUNCIL.**

In accordance with Article VI, Section 6 of the Constitution of the Muscogee (Creek) Nation, I, A.D. Ellis, Principal Chief of the Muscogee (Creek) Nation, do hereby object to and withhold my signature and the seal of the Muscogee (Creek) Nation from NCA 11-031, entitled "**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 21, § 1-103, CHAPTERS TWO, THREE, FIVE, SIX EIGHT, ELEVEN AND § 12-104 OF THE GAMING CODE TO CREATE A THREE PERSON GAMING COMMISSION,**" pursuant to Article VI, Section 6)c) of the constitution of the Muscogee (Creek) Nation.

OBJECTION ONE: The proposed amendment as set forth in NCA 11-031 violates the very basic and fundamental constitutional principle of separation of powers and threatens the independence of the Executive Branch of the Muscogee (Creek) Nation. The Office of Public Gaming which is the regulatory body over the gaming operations of the Muscogee (Creek) Nation is an Independent Agency of the Executive Branch as set forth in MCNCA Title 16 § 1-102. The Gaming Code, particularly MCNCA 21 § 2-101 established the Muscogee (Creek) Nation Gaming Commissioner as the authority to provide for the orderly development, administration and regulation of public gaming. NCA 11-031 is an amendment of this section to create a three member commission to replace the single authority. Pursuant to the Constitution of the Muscogee (Creek) Nation an action of this nature requires the participation and approval of the Chief Executive Officer, the Principal Chief of the Nation.

OBJECTION TWO: NCA 11-031 violates the principle of separation of powers of the Executive Branch, which are to be vested pursuant to the Constitution of the Muscogee (Creek) Nation, in the Principal Chief, with all executive officers to be created and organized by the Principle Chief.

OBJECTION THREE: The Constitution of the Muscogee (Creek) Nation and the judicial decisions of the Muscogee (Creek) Nation Supreme Court support the proposition that the powers of the National Council are limited to passing laws, appropriating money and providing legitimate advice and consent. By way of illustration and not by way of limitation, the provisions of NCA 11-031 far exceed the boundaries of legitimate legislation by unconstitutionally extending the normal advice and consent of the National Council. NCA 11-031 is the latest misguided example of the National Council's ongoing attempts to usurp the legitimate authority of other branches of the tribal government and to ignore the controlling judicial decisions of the Muscogee (Creek) Nation Supreme Court.

OBJECTION FOUR: NCA 11-031 has been passed unilaterally by the National Council with no collaboration or consultation of any sort with the Principal Chief of the Muscogee (Creek) Nation. This purported enactment is an unconstitutional infringement on the powers of the Principal Chief and the Executive Branch by the National Council.

OBJECTION FIVE: NCA 11-031 is ill conceived since the legislation appoints three equal members with no differentiation of authority. It becomes three people doing the work of one. This extra level of gaming oversight is not required by federal law or the state gaming compact and will not add to the effective regulation of gaming.

For the reasons outlined above NCA 11-031 is hereby returned as a **VETO**.

Sincerely,



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

DATED: March 10, 2011

ADE/tdy

VETO



NCA 11-031

CLASSIFICATION: #21. GAMING

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 21, §1-103, CHAPTERS TWO, THREE, FIVE, SIX, EIGHT, ELEVEN AND §12-104 OF THE GAMING CODE TO CREATE A THREE PERSON GAMING COMMISSION

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

FINDINGS. The National Council finds that:

A. In 1992, the Muscogee (Creek) Nation Public Gaming Code ("Gaming Code") was established through NCA 92-162 to create more self-sufficiency in its economic internal affairs.

B. With the enactment of the Gaming Code, the position of a Public Gaming Commissioner was created to oversee the administration, development, and regulation of the Nation's public gaming endeavors.

C. Since the inception of gaming within the jurisdiction of Muscogee (Creek) Nation, the Nation has considerably expanded its gaming facilities. Currently the Nation operates eleven (11) gaming facilities.

D. The Muscogee (Creek) Nation recognizes that the gaming industry is a heavily regulated and it must expand its oversight capacity to meet the demand of the compliance standards placed upon it by Federal requirements.

E. By increasing the number of Commissioners from one to three, it will ensure fair oversight and licensing for all gaming employees and facilities.

SECTION ONE. AMENDMENT. MCNCA Title 21, §1-103. is hereby amended to read as follows:

§1-103. Definitions

A. "Bingo" means a game in which each player receives a bingo face and covers the squares according to the numbers, letters, or combinations of numbers and letters that have been announced by the caller or some other designated source, such as a random number generator licensed by the Commission. The numbers and letters called are on an object selected at random either manually, electronically, or

mechanically from a receptacle or device in which have been placed the objects bearing the numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the bingo face squares. The winner of each bingo game is the player who first properly covers a predetermined and announced pattern of squares upon the bingo face being used by the player.

B. "Bingo face" means a flat piece of paper, or facsimile thereof, which is marked off into any number of squares in any arrangement of rows, with each square being designated by number, letter or combination of numbers and letters which cannot be used after the game in which a player has used it is over.

C. "Commission" means the Muscogee (Creek) Nation Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, Federal and applicable State regulations.

D. "Commissioner" means a Muscogee (Creek) Nation Gaming Commissioner.

E. "Electronic, computer or other technologic aid" means a device such as a computer, telephone, cable, television, satellite or bingo blower and that when used:

1. Is not a game of chance but merely assists a player or the playing of a game;
2. Is readily distinguishable from the playing of a game of chance on an electronic or electromechanical facsimile; and,
3. Is operated according to applicable Federal communications law.

F. "Gain" means the direct realization of winnings.

G. "Gambling" means risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance or the operation of a gambling device, but does not include: bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries; bona fide business transactions which are valid under the law of contracts; and other acts or transactions now or hereafter expressly authorized by law.

H. "Gambling device" means any unlicensed device or mechanism by the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of a substantial element of chance; any unlicensed device or mechanism which when operated for a consideration does not return the same value or thing of value for the same consideration upon each operation thereof, any unlicensed device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection

with professional gambling; and any unlicensed sub-assembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation.

I. "Gambling information" means a communication with respect to any wager made in the course of and any information intended to be used for unlicensed professional gambling. In the application of this definition the following shall be presumed to be intended for use in professional gambling: information as to wagers, betting odds or change in betting odds.

J. "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place whether open or enclosed, used or intended to be used for unlicensed professional gambling. In the application of this definition, any place where an unlicensed gambling device is found shall be presumed to be intended to be used for professional gambling.

K. "Gambling record" means any record, receipt, ticket, certificate, token, slip, notation, computer, hard drive, computer diskette, computer back-up tape, CD or other recording device given, made, used or, intended to be used in connection with unlicensed professional gambling.

L. "Gaming" means games of chance or skill that are regulated by the Commission.

M. "Gaming Operation(s)" means all gaming operations established by the Muscogee (Creek) Nation.

N. "Gaming vendor" means any person who manufactures, distributes, leases, repairs, rebuilds, modifies or programs:

1. Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss, including:
 - a. An electronic gaming machine;
 - b. A collection of two or more of the following components:
 - i. an assembled electronic circuit which cannot be reasonable demonstrated to have any use other than in an electronic gaming machine;
 - ii. a cabinet with electronic wiring and provisions for mounting a coin, token, card or currency acceptor;
 - iii. a storage medium containing the source language or executable code of a computer program that cannot

- be reasonably demonstrated to have any use other than in an electronic gaming machine;
- iv. an assembled video display unit; or
 - v. an assembled mechanical or electromechanical display unit intended for use in gambling; or
 - vi. assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in an electronic gaming machine.
2. Any item used to play a game including:
 - a. playing cards;
 - b. bingo balls;
 - c. bingo cards, bingo paper packs or paper pack components;
 - d. ball blower;
 - e. chips;
 - f. cards, tokens or any other device or machine that stores or registers cash credit; or
 - g. a random number generator.
 3. Links which connect to progressive gaming machines;
 4. Equipment which affects the proper reporting of gross revenue;
 5. Computerized devices for weighing or counting money;
 6. Computerized system for recordation of sales of gaming.

O. "Instant Bingo or pull-tabs" means the activity where players purchase outwardly identical cards from a stack of cards (the "deal"). The deal includes a pre-determined number of winning and losing cards. The player opens the tab and finds out if the card is a winner. A player obtains a paper or electronic card or ticket that may be displayed for the player on a video monitor from a stack of similar cards or tickets. The player opens the paper or electronic pull-tab and examines the combinations to determine if they have a winning combination.

P. "Key employee" means a person who performs one or more of the following functions:

1. Bingo Caller;
2. Counting (money) room personnel;
3. Chief of Security and security personnel;
4. Custodian of gaming supplies or cash;
5. Floor manager;
6. Pit boss;
7. Dealer;
8. Croupier;
9. Approver of credit;

10. Custodian of gaming devices, including persons with access to cash and accounting records within such devices;
11. Surveillance personnel;
12. Gaming Operations Authority Board members;
13. Any person who:
 - a. Receives over \$50,000.00 per year in cash compensation; or
 - b. Is one of the four most highly compensated persons in the gaming operations.

Q. "License" means the permission, by authority of the Muscogee (Creek) Nation, to do an act that without permission would be illegal, and that is granted in writing by the Commission for consideration to a person to pursue some occupation or to carry on some business, subject to regulation under the jurisdiction of the Muscogee (Creek) Nation. A license is a privilege to go on the premises for a certain purpose but does not operate to confer on, vest in, or license any title, interest, or estate in Muscogee (Creek) Nation real property.

R. "Lottery" means any procedure for the disposal or distribution of property, including money, by chance where: (1) the players pay something of value for chances, represented or differentiated by numbers or by combinations of numbers or by some other designation, one or more of which chances are to be designated the winning ones; and (2) the winning chances are to be determined by a drawing held by the manager of the game, or by some other method based upon the element of chance; and (3) the holders of the winning chances are to receive something of value; and (4), when played or operated once, destroys the value of the chance as the prizes are distributed.

S. "Nation" means the Muscogee (Creek) Nation as established under the Muscogee (Creek) Constitution of 1979. Individual tribal towns and chartered communities of the Muscogee (Creek) Nation are considered component, inseparable subdivisions of the Muscogee (Creek) Nation and may only benefit from the rights and privileges from the Muscogee (Creek) Nation under this Code.

T. "Net Revenues" means gross gaming revenues less: all amounts paid out as, or paid for, prizes; and total gaming related expenses, excluding management fees.

U. "Off-Track Betting" means a form of wagering on the outcome of horse or dog races, whereby all bets made on a particular race are pooled in a pari-mutuel, combination or mutual field betting pool and then paid (less a standard management fee to cover local costs, pooling costs, track costs, and profits) to the winning tickets.

V. "Pari-mutuel racing" means the activity wherein participants bet a sum of money, in predetermined increments, to wager on which horses or dogs shall place first

(or "win"), second (or "place"), or third (or "show") in a race for a predetermined distance. If a horse or dog is determined to have properly won the first, second, or third place in the race, the participants who have bet upon that horse or dog are paid upon their wager according to formulas approved under the laws or regulations of the Muscogee (Creek) Nation. Players may also be paid upon a combination basis or upon a mutual field basis.

W. "Person" means a natural person, a partnership, an association of persons, a corporation, a firm, a limited liability company, a sole proprietorship, a trust, a joint venture, a consortium, a commercial entity, a Muscogee (Creek) Nation tribal entity, a Muscogee (Creek) Nation chartered Indian community or an Indian Tribe.

X. "Primary management official" means:

1. The person having management responsibility for a management contract;
2. Any person who has authority:
 - a. to hire and fire employees or
 - b. to set up working policy for the gaming operations; or
3. The chief financial officer or other person(s), who has financial management responsibility including members of all boards or panels who have oversight responsibility for any tribally licensed gaming operation.

Y. "Professional gambling" means accepting or offering to accept for profit, money, credit, deposits or other things of value risked in unlicensed gambling, or any claim thereon or interest therein. Without limiting the generality of this definition, the following unlicensed activities shall be included: pool-selling and bookmaking; maintaining slot machines, one-ball machines or variants thereof; pinball machines which award anything other than an immediate and unrecorded right of replay; roulette wheels; dice tables; money or merchandise pushcards, punch boards, jars or spindles in any place accessible to the public; conducting unlicensed lotteries, gift enterprises, policy or numbers games, or selling chances therein; conducting any unlicensed banking or percentage game played with cards, dice or counters, or accepting any fixed share of the stakes therein.

Z. "Progressive game" means a game in which prizes are allowed to be carried over and increased from session to session.

AA. "Skill game" means a game where the player, through practice, can alter the outcome.

BB. "Unlicensed" means not holding a valid license issued by the Commission.

CC. "U-PIK-EM bingo game" means a game played wherein a player selects the numbers in a U-PIK-EM bingo game. The player and the game operator both receive the bingo face with the players selected as marked by the player. The player then covers the numbers as the caller or some other designated source, such as a random number generator licensed by the Commission, announces a number. The numbers called are on an object selected at random either manually, electronically, or mechanically from a receptacle or device in which have been placed the objects bearing the numbers. The winner of each U-PIK-EM bingo game is the player who first covers all the numbers appearing on his or her bingo face in accordance with the pattern as designated on the bingo face.

DD. "Valuable prize" means an object or service worth One Hundred Dollars or more in fair market value.

EE. "Whoever" means a natural person, a partnership, an association of persons, a corporation, a firm, a limited liability company, a sole proprietorship, a trust, a joint venture, a consortium, a commercial entity, a Muscogee (Creek) Nation tribal entity, a Muscogee (Creek) Nation chartered Indian community and an Indian tribe.

SECTION TWO. AMENDMENT. MCNCA Title 21, Chapter 2 is hereby amended to read as follows:

CHAPTER 2. MUSCOGEE (CREEK) NATION GAMING COMMISSION

§ 2-101. Office of Public Gaming established

In order to provide for the orderly development, administration, and regulation of public gaming, there is established the Office of Public Gaming which shall be directed by the Muscogee (Creek) Nation Gaming Commission.

The Office of Public Gaming is hereby established as an independent agency and instrumentality of the Nation, possessing all powers set forth in this Title and such other powers as are now or thereafter determined by applicable law.

§ 2-102. Appointment and term of office

The Commission shall be comprised of three members, two of whom shall be citizens of the Muscogee (Creek) Nation.

A. Appointment. Commissioners shall be nominated by the Principal Chief subject to confirmation by the National Council by duly adopted Tribal Resolution. A Commissioner's term will be for four (4) years without holdover, provided that a Commissioner may serve more than one (1) term in office and subject to the provisions

of Subsections B, C, and D. A Commissioner shall be subject to a background investigation which shall contain the same information as required by Chapter 3 of this Title for gaming license applicants. The background investigation shall be completed by the Attorney General or a company selected by the Attorney General that performs background investigations. All costs associated with the background investigation shall be born by the Office of Public Gaming. The findings shall be presented to the National Council in Executive Session. The background investigation and findings shall be confidential and no copies of the investigation shall be retained. The original shall be kept in the Office of Public Gaming with the gaming license applications.

B. Qualifications. Nominees must be at least twenty-five (25) years of age or older and must have the following qualifications:

1. Obtained a Bachelor's Degree in either Accounting, Business Administration, Finance, Criminal Justice or other related fields; and possess two years of gaming experience; or have a minimum of five years experience of any combination of the following:
 - a. Law Enforcement;
 - b. Business Management;
 - c. Accounting or Finance;
 - d. Management or Regulatory experience within the private sector or a governmental agency, preferably tribal government; or
 - e. Gaming Experience in one or more of the following areas: regulation, operations, licensing, auditing, administrative hearings or decision-making, background investigations, surveillance, law enforcement or information technology.
2. Submit to and successfully comply with criminal and civil background investigations and meet the Nation's suitability standards which will be at least as stringent as the standards established for key employees and primary management officials.
3. Have no prior adult criminal record or conviction of, or entry of a plea of guilty or no contest to any of the following in any jurisdiction, unless pardoned:
 - a. A felony within the last ten years;
 - b. Any gaming-related offense;
 - c. Any crime of dishonesty, including, but not limited to, fraud, misrepresentation, theft or deception in any form;
4. Possession of a valid driver's license and proper insurance; and
5. Not be a primary management official, or owner or controlling person with respect to any management contract or vendor contract.

C. Term. To establish a staggered Commission appointment schedule, the first Commission shall be established as follows: The current Gaming Commissioner shall continue until December 31, 2011 as Commissioner One. The term of Commissioner Two shall begin upon confirmation and shall continue his or her term until December 31, 2012, The term of Commissioner Three shall begin upon confirmation and shall continue his or her term until December 31, 2013.

Thereafter, all successive terms of appointment for a Commissioner shall run for four (4) years which expire on December 31 of the respective years.

D. Vacancies. If any Commissioner is removed pursuant to the provisions of Section §2-104, resigns, dies, or for any reason becomes unable to continue serving on the Commission, the Principal Chief shall nominate a person, subject to confirmation by the National Council by duly adopted Tribal Resolution, to fill such vacancy. Such appointment shall be for the balance of the unexpired term of the Commissioner being replaced without holdover.

E. Chairperson/Meetings. The Commission shall elect a Chairperson and a Vice-Chairperson. Unless designated specifically in this title or by notice of the Commission, meetings of the Commission are not open meetings; however, the voting results of all resolutions, and regulations or any other official acts must be documented on the official document and executed by the Commission Chairperson. All Commissioners shall immediately be notified of all meetings of the Commission. Two Commissioners shall designate a quorum. All official decisions of the Commission shall be by a majority vote.

§ 2- 103. Outside employment and activities of Commissioners

A Commissioner shall be full time and may not hold other tribal positions. Commissioners may not be employed outside this Commission. Commissioners are prohibited from gambling in a Gaming Operation and are prohibited from accepting complimentary items from a Gaming Operation or a vendor of a Gaming Operation excepting food and beverage valued at under \$25.00 and nominal items that may be routinely given to the Public. Each Commissioner shall be bondable with the Muscogee (Creek) Nation in the amount of One Hundred Thousand Dollars (\$100,000.00).

§ 2-104. Removal from Office

A. A Commissioner may tender his or her written resignation at any time. A Commissioner may be removed from office prior to the end of any term for cause in accordance with Chapter 1 of Title 31 (Title 31, § 1-101 et seq.) of the Code of Laws of

the Muscogee (Creek) Nation, including any one or more of the following causes as set forth in a written petition under the provisions of Title 31:

1. Dishonesty, gross misconduct or incompetence in office;
2. Conviction of a felony under federal, state or tribal law;
3. Committing any act or engaging in any activity which would constitute a criminal offense involving dishonesty or moral turpitude under federal, state or tribal law;
4. 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;
5. Being employed by any of the following: Muscogee (Creek) Nation, any board, agency or entity of the Muscogee (Creek) Nation, or any Chartered Indian Community;
6. Willful failure to disclose material information or facts; or
7. Material violation of this title;
8. Excessive unexcused absences;
9. Using the position as Commissioner to give preferential treatment to any private organization or individual, including members of a Commissioner's immediate family;
10. Unauthorized use of Office of Public Gaming funds.

§ 2-105. Duties

The Commission shall be charged with the responsibility of administering and enforcing the provisions of this title. It shall be the responsibility of the Commission to promulgate regulations necessary to administer provisions of this title. These duties shall include but not be limited to the following:

1. Printing and making available application forms for initial and renewal licenses, as well as any other necessary licenses.
2. Supervising the collection of all fees prescribed in this title.
3. Processing all license applications.
4. Issuing licenses.
5. Determining applicable license fees as provided in the Gaming Code.
6. Auditing all returns.
7. Reviewing gaming vendor contracts to determine compliance with tribal and federal laws and regulations, including Office of Public Gaming regulations and Minimum Internal Control Standards.
8. Denying any application, limiting, conditioning, suspending, or restricting any license or permit, making a finding of suitability or

- approval of the license or permit, or a finding of suitability or approval of or the imposition of a fine upon any person licensed or permitted for any cause deemed reasonable by the Commission.
9. Performing any other duties as required by law.
 10. Employing legal counsel with the consent of the Muscogee (Creek) Nation and subject to approval by Tribal Resolution.
 11. Defending this title in any court of law in consultation and with the concurrence of the Attorney General.

§ 2-106. Authority of Commission

The Commission may exercise any proper power and authority necessary to perform the duties assigned by this title. The Commission may employ staff and organize any functional divisions as may be necessary. The Commission may from time to time alter such plan of organization as may be expedient. The Commission shall recommend to the Office of Public Gaming a budget for operations to the Controller of the Muscogee (Creek) Nation, and take any other steps necessary to fulfill duties and responsibilities under this title. In adopting, amending, or repealing any Office of Public Gaming regulations, the Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commission has reason to believe have a legitimate and bona fide interest in such action, including the Office of the Principal Chief, Attorney General and the National Council.

SECTION THREE. AMENDMENT. The following Sub-Chapters and Sub-Sections of MCNCA Title 21, Chapter 3 are hereby amended to read as follows:

§ 3-101. License required

B. Any other forms of Public Gaming operations being conducted within the jurisdiction of the Muscogee (Creek) Nation without the lawful written approval of the Commission are prohibited.

§3-103. Classes and Fees

I. Class "S". Satellite Bingo is the activity wherein bingo games are electronically transmitted by the utilization of live or prerecorded pictures or data from predesignated satellites owned, leased, or through use of agreement to authorized sending units, places or areas, at an annual rate of \$1,200 for the revocable privilege of transmitting, satellite bingo games into a specific location within the reservation. "Class S" licensees shall abide by this title and all rules and regulations promulgated by the Commission. Approval of leases or contracts for satellite bingo enterprises between the Muscogee (Creek) Nation and any third party will be approved by law.

§ 3-104. Exemptions

B. Charitable Raffles. Selling chances on any item(s) and/or service(s) in order to raise funds for any church, ceremonial ground, or chartered community, or for other charitable purposes recognized in regulations issued by the Commission.

§3-105. Licensing requirements for chartered communities

All chartered communities must have current and valid authorization to use Muscogee (Creek) Nation property in order to obtain a license to conduct gaming. Such authorization must comply with all Muscogee (Creek) Nation laws. For purposes of gaming license requirements, the community chairperson, vice-chairperson and treasurer shall be deemed to be primary management officials. If the Commissioner determines that a community chairperson, vice-chairperson or treasurer is not eligible for a gaming license, then the community shall be precluded from operating any gaming facility so long as such person shall remain in office as a community official.

§ 3-107. License applications; notices

D. The Commission shall notify in writing existing gaming licensees that they shall either:

§ 3-108. License applications; background investigations

A. The Commission shall request from each gaming license applicant all of the following information:

13. Any other information the Commission deems relevant; and
14. Fingerprints consistent with procedures adopted by this Title.

B. The Commission shall conduct an investigation sufficient to make a determination of license eligibility pursuant to Title 21, § 3-109. In conducting a background investigation, the Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

§ 3-109. License eligibility determination

The Commission shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a license applicant for employment in a gaming operation.

If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming, the Commission shall not issue a license to the applicant.

§ 3-110. Procedures for Forwarding license applications and reports to the NIGC

A. When a gaming license applicant begins work at a gaming operation authorized by this law, the Commission shall forward to the NIGC a completed application for employment, the background investigation and make the eligibility determination referred to in Title 21, § 3-109.

B. The Commission shall prepare and forward to the NIGC an investigative report on each background investigation. An investigative report shall include all of the following:

1. Steps taken in conducting a background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.

C. The Commission shall submit with the investigation report a copy of the Commission's eligibility determination.

D. If a license is not issued to an applicant, the Commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

E. The Commission shall retain license applications and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than 3 years from the date of termination of employment.

§ 3-111. Granting a gaming license

A. If within a 30 day period after the NIGC receives a report, the NIGC notifies the Nation that it has no objection to the issuance of a license to a gaming license applicant for whom the Nation has provided an application and investigative report to the NIGC, the Commission may issue a license to such applicant.

B. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a gaming license applicant who is the subject of a report. Such request shall suspend the 30 day period under paragraph 1 of subsection G of this section until the Chairman of the NIGC receives the additional information.

C. If within the 30 day period described above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a gaming license applicant for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking

into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

§ 3-112. License suspension

A. If after the issuance of a gaming license, the Commission receives from the NIGC reliable information indicating that a gaming license applicant is not eligible for a license, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

B. The Commission shall notify the licensee of a time and a place for the hearing on the proposed revocation.

C. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of the decision.

D. The Commission may suspend licenses for other reasons in accordance with §11-109.

When a licensee changes location of gaming activities within the Muscogee (Creek) Nation, the Commission shall issue a corrected license for the balance of the current period reflecting the new address upon reasonable proof of change of address and without imposition of an additional license fee.

§ 3-115. Fees

Each application for an initial or renewal license shall be accompanied by payment of the license fee. The Commission's determination of the type of license required shall be final. This fee is imposed for the revocable privilege of being licensed to engage in public gaming activities within the Muscogee (Creek) Nation. All license fees shall be paid to the Treasury of the Muscogee (Creek) Nation.

§ 3-116. Non-transferability

The license issued pursuant to the provisions of this title is valid only for the person at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or for any other location without the written approval of the Commission.

§ 3-117. Licenses revocable

A license is a revocable privilege, and no holder thereof shall be deemed to have a part in any vested rights therein. The burden of proving qualifications to hold any license

rests at all times in the licensee. The Commission is charged by law with the duty of continually observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or persons whose operations are conducted in an unsuitable or questionable manner.

§ 3-118. Violations

Violations of any provisions of this title or any of the Commission's regulations by a licensee, its agent or employee shall be deemed contrary to the public health, safety, morals, good order, and general welfare of the Muscogee (Creek) Nation and grounds for refusing to grant or renew a license; grounds for suspension or revocation of a license; grounds for the filing of criminal charges; or grounds for a civil action. Acceptance by a licensee of a license, its renewal, or condition imposed thereon, constitutes an agreement on the part of the licensee to be bound by all the regulations of the Commission and the provisions of this title as they are now or may hereafter be amended or promulgated. It is the responsibility of the licensee to stay informed of the contents of all such regulations and provisions, and failure to stay informed will not excuse the violations.

§ 3-119. Review of Contracts

As a provision of licensing, no facility shall be operated pursuant to a management agreement or contracts, and no facility shall operate gaming devices pursuant to a vendor agreement or contract, until said facility has acquired the review of the Gaming Commission for purposes of determining whether the said agreement or contract, or the gaming device which is the subject of the agreement or contract, complies with applicable law. All other leases, contracts or other agreements involving gaming activities shall be provided to the Gaming Commission for review.

§ 3-120. Review of Lease

No licensee shall conduct any activity authorized under this title upon any premises, if the lease, license, contract, or any other agreement under which right to use said premises is not first fully disclosed to the Commission. A chartered Indian community must have a valid facility-use agreement with the Muscogee (Creek) Nation to conduct gaming at that location.

SECTION FOUR. AMENDMENT. The following Sub-Chapters and Sub-Sections of MCNCA Title 21, Chapter 5 are hereby amended to read as follows:

5-101. Records, Returns and Audits

It shall be the responsibility of the Commission to promulgate regulations establishing proper accounting procedures and methods of operations for all licensees of gaming facilities, so that all monies or things of value received and/or paid out may be properly monitored and accounted for. All licensees of gaming facilities shall be required to keep an approved accounting system, which shall comply with, but not be limited to all applicable provisions of this code or regulations of the Commission. Said accounting system shall reflect all business and financial transactions involved or connected in any manner with the operation and conducting of activities authorized by this title.

§ 5-102. Licensee Avoidance of Payment of Proceeds

Any delay, maneuver or action of any kind, which in the opinion of the Commission, is effectuated by any licensee to unlawfully avoid paying the proceeds properly owing to the Muscogee (Creek) Nation shall constitute grounds for taking any action deemed necessary by the Commission, including but not limited to, fining, revoking, suspending, limiting, or refusing to renew the license of any licensee.

§ 5-103. Production of Records; Hearings

No applicant, licensee, or employee thereof shall neglect or refuse to produce records or evidence under their control, or to give information upon proper and lawful demand by the Commission, or shall otherwise interfere with any proper and lawful efforts by the Commission to produce such information. The Commission may summon any licensee or a licensee's agents, employees, or suppliers to appear to testify with regard to the conduct of any licensee or the agents, employees, or suppliers of any licensee. All such testimony shall be given under oath and may embrace any matters, which the Commission may deem relevant to the discharge of its official duties. Any person so summoned to appear shall have the right to be represented by counsel. Any testimony so taken may be used by the Commission as evidence in any proceeding or matter before the Commission or the Courts of the Muscogee (Creek) Nation or, which may later come before the Commission or the Courts of the Muscogee (Creek) Nation. Failure to so appear and testify fully at the time and place designated, unless excused, shall constitute grounds for revocation or suspension of any license held by the person summoned, his principal, or employee, or the loss of the privilege to further supply any person licensed under this title.

§ 5-104. Dual Employment

Unless prior written approval is obtained from the Commission, no person employed in the conduct of Public Gaming operating under one license shall be employed under any other license authorized to operate under this Title.

§ 5-105. Age Limit for Gaming

No person, who is under the age of eighteen (18), shall operate nor shall be allowed to participate in any manner in the operation of any gaming. No person(s) under the age of sixteen (16) shall be allowed on premises where gaming is being conducted. It shall be the responsibility of the licensee to enforce the provisions of this section.

§ 5-111. Licensee Responsibility

Licensees must supervise and be directly responsible for all activities on their premises authorized by license under this title, except as specifically outlined in Management Agreements approved by National Council by Tribal Resolution and the Commission. Provided that a tribal entity or the Gaming Operations Authority Board may contract with one of the Nation's wholly owned Tribal Travel Plazas for operation and supervision of the gaming operation within the particular Travel Plaza of the Nation, subject to the contract, and any amendments thereto being reviewed and approved by the Commission. Be it further provided, that any such Travel Plaza contract shall in no way relieve the licensee of any of its duties and responsibilities under the Nation's gaming laws and regulations.

§ 5-112. Safety and Welfare

It is the policy of the Commission and the Muscogee (Creek) Nation to require that all establishments, wherein gaming is conducted within the Nation, be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of the inhabitants of the Muscogee (Creek) Nation. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee and willful and persistent use or toleration of unsuitable methods of operation will constitute grounds for license revocation or other disciplinary actions. All establishments, wherein gaming operations are to be conducted, must be certified as safe by the Commission prior to the issuance of a license. Any alterations or modifications must be approved by the Commission.

§ 5-114. Inspection of Premises

A. Any premises licensed or any premises connected physically or otherwise with a licensed business, including vehicles used in connection therewith, shall at all times be open to inspection by the Commission. At any time during which a licensed gaming or related administrative activity is being conducted on a premises, the Commission or any authorized representative of the Commission may enter upon the premises without advance notice and:

1. Make an account of all monies on the premises and all monies received during the operation of the licensed activity located on the

- premises, inspect all receipts for prizes which have been awarded by the licensee;
2. Inspect any other records, accounts or other related information of the licensee, or of any member who directly participates in the management, operation, or promotion of a licensed activity; or of any employee of the licensee; or of any operator of the licensed activity;
 3. Inspect, including the dismantling of all pieces of equipment or parts thereof or devices of any nature, which are being used to conduct the licensed activity.

B. When the Commission finds cause to believe that there is a reasonable probability that the provisions of this title or any regulations of the Commission have been or are being violated by the licensee or its employees or operators, the Commission may remove, for further inspection or investigation, any and all records, equipment, parts thereof, devices, or thing(s) of any nature located upon the premises related to the operation of the licensed activity or any other gambling activity. The Commission shall issue a receipt to the licensee listing each record, equipment or parts thereof, device, or thing(s) which has been removed from the premises. Each item removed shall be returned to the premises or the address of the licensee within ten (10) days, except Saturdays, Sundays, and days when tribal offices are legally closed in as good condition as it was when it was removed. The Commission may retain the items for a longer time period if it is determined that the items are necessary for an ongoing investigation or evidence of possible violations of this title or regulations of the Commission, or for possible forfeiture. The Commission shall notify the licensee of the reasons the property is to be held past the ten (10) days.

§ 5-116. Firearms

A. **Security Guards.** No security guard shall be allowed to carry on gaming premises pistols, revolvers, rifles, shotguns, "B.B." guns, CO2 guns, or any other firearms or air gun capable of discharging dangerous projectiles or gases without prior written Commission approval. The Commission is authorized to issue written approval of the use of types of firearms specified by the Commission by only those security guards who have received the same minimum law enforcement training requirements that must be met by Lighthorse officers, including annual training requirements, background checks, drug tests and a medical examination, or those security guards who possess a current valid armed security guard license from the Muscogee (Creek) Nation or the State of Oklahoma Council on Law Enforcement Education and Training (CLEET) or who are off-duty law enforcement officers of the Muscogee (Creek) Nation, or off-duty officers of a city, county or state. The Commission shall develop a use of force policy for armed security guards that shall be implemented by the licensees of gaming facilities prior to Commission approval to carry a firearm.

§ 5-117. Credit

No licensee or any of its members or employees, or any operator conducting or in any way participating in conducting any activities authorized by this Title or by the Commission's regulations, shall allow a person to play that activity on credit or shall grant a loan of any kind at any time to a person playing the activity.

§ 5-119. Licensee shall keep a current copy of the Code and Regulations

Each licensee shall obtain, maintain, and keep current a copy of the Public Gaming Code and all regulations of the Commission, which shall be located upon the premises used for the conduct of a licensed activity by a licensee during all times the activity is there conducted. The regulations shall be produced by the licensee and shown to any person upon demand. The fact that the licensee may not have a current copy of each of the regulations of the Commission shall not in any way diminish the licensee's obligation to abide by these regulations.

§ 5-121. Resident Agent

Any licensee who is not a Muscogee (Creek) Nation resident or resident corporation shall designate a natural person, who is a resident living in the Muscogee (Creek) Nation and who is eighteen (18) years of age or older, as a resident agent for the purpose of receipt and acceptance of service of process and other communication on behalf of the licensee. The name and business address where service of process and delivery of mail can be made, and home address of such designated resident agent shall be filed with the Commission. All licensee agents must be listed with the Commission.

§ 5-122 Progressive Payout

All licensees conducting games with a progressive payout feature will provide the Office of Public Gaming, for approval, the system for accumulation and account restrictions of funds so designated. The procedure and any amendments thereto must receive prior written approval of the Commission.

§ 5-123 Employee List

All gaming facility employees must be listed with the Commission. Such lists are to be kept current.

§ 5-124 Dispute resolution procedures

Disputes between the gaming public and the Muscogee (Creek) Nation (or management contractor) should first be addressed by the licensee. In the event a satisfactory conclusion is not reached the Commission shall:

A. Respond to signed complaints. If additional information of the circumstances is needed, a request is to be made by the Commission in writing. Additional statements of individuals, who may be able to substantiate the claim or provide additional relevant data, shall be encouraged.

C. Request and review any records, documents, video or audio tapes, equipment, or any other information deemed to be relevant by the Commission as related to the dispute.

E. Notify the licensee and the patron reporting the complaint of the Commission's decision in writing. All decisions of the Commission are final.

§5-125. Receiving items of value

A. The Gaming Commission or Office of Public Gaming employee(s) shall not accept or receive anything of value, including without limitation airfare, travel accommodations, meals, prizes, personal items, and apparel of any kind, from the Gaming Operations Authority Board, any member of the Gaming Operations Authority Board, any vendor licensed and contracted with any tribally operated gaming Casinos, or Chartered Indian Community Casinos, potential vendors who have made application for a gaming license and any other person or company who is contracted to do business with the Muscogee (Creek) Nation as a whole. Vendors who are contracted to do business with a Muscogee (Creek) Nation tribally operated gaming Casino or any Chartered Indian Community shall be expected to strictly adhere to the provisions set for herein. Failure to be in compliance with this law will result in the vendor's license being revoked, and the vendor's contract(s) with tribally operated Casinos or Chartered Indian Communities being cancelled. Be it further provided, this provision shall not apply to promotional items that are given to the general public and have a value of Twenty-five Dollars (\$25.00) or less. Violation of any of the activities prohibited in this subsection may be a criminal offense punishable in accordance with the Criminal Offenses Code.

SECTION FIVE. AMENDMENT. The following Sub-Chapters and Sub-Sections of MCNCA Title 21, Chapter 6 are hereby amended to read as follows:

§6-105. Chief of Security – duties

E. To develop posting orders relative to their respective halls after consultation with the manager of each gaming establishment or hall, subject to review and approval

by the Commission. Posting orders shall specify whether a post requires an armed security guard, and, if so, written justification for having an armed security guard shall be provided to the Commission.

§ 6-108. Lighthouse assistance in licensing standards

Lighthouse Administration may serve in an advisory capacity to the Commission in preparing minimum standards for licensing security guards and provide assistance to the Gaming Security Chief in qualifying armed security guards on the firing range. Lighthouse Administration shall be reimbursed by the agency or department assisted for out-of-pocket expenses incurred.

§ 6-109 Powers of Commission

Licensees shall provide for their facility security, provided that contracts are reviewed and security plans, or amendments thereto are approved by the Commission prior to implementation. In addition to the foregoing, the Commission shall have the following powers and duties regarding security guards and investigators employed to work in any licensee facility.

A. To promulgate rules and regulations for the applications for and issuance of licenses to security guards and investigators employed in a licensee facility in accordance with, but not limited to all requirements contained in this Title.

B. To issue a regular license and identification card to each person authorized by the Commission to be employed as security personnel in a licensed facility, upon satisfaction of all requirements for the issuance of a regular license.

C. To issue a temporary license to any person to be employed as a security guard or investigator who is duly licensed in another recognized jurisdiction, provided that an Oklahoma State Bureau of Investigation records check and a local records check reveal no felony convictions, criminal convictions involving moral turpitude, or any other disqualifying convictions as specified herein or prescribed by the Commission, pending completion of the criminal history and background check and verification of training and experience necessary for the issuance of a regular license. A temporary license holder shall not carry a firearm in the performance of his duties until he has been issued a regular license.

D. To issue a conditional license to a person employed as a trainee for a security guard, armed security guard, or investigator position, when such person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize such employee to perform the same functions that regular licensees perform, but subject to supervision of the holder of a regular license as the Commission may prescribe.
2. The holder of a conditional license shall complete the necessary training requirements within one hundred eighty (180) days from the effective date of the conditional license, after which the conditional license shall expire.
3. The holder of a conditional license as an armed security guard shall not carry a firearm in the performance of this duties until he has completed a course in firearms training, as prescribed by the Commission, and has been issued a regular license.
4. A conditional license may be renewed at the discretion of the Gaming Commission, if necessary to complete any training required for a regular license.
5. When the Gaming Commission finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of this section, the Commission shall issue such person a regular license.

E. To deny, suspend or revoke any license and identification card issued pursuant to this subsection based on, but not limited to, the following reasons:

1. Any erroneous or false statement in an application for license submitted pursuant to this act;
2. A conviction for any offense involving any felony; any offense involving moral turpitude; any offense involving a minor as a victim; any offense involving the possession, use distribution or sale of a controlled dangerous substance; or a plea of guilty or a plea of no contest to any of the same in any court of competent jurisdiction;
3. Use of beverages containing alcohol or being under the influence of such beverages or use of any while armed with a firearm, or while performing his or her duties as a security person;
4. Knowingly impersonating a law enforcement officer;
5. Failure to successfully complete any prescribed course of training as required by the Commission;
6. Willfully making any false report to his employer or to anyone as required by this Title or any applicable laws;
7. Disclosure of any information gained by him in his employment, except as his employer may direct or as he may be required by law to disclose.

F. The Commission shall require that the Muscogee Nation Gaming Authority Security Department, each security agency, or licensee facility employing a security guard shall at all times keep the Office of Public Gaming and the Lighthouse Administration informed in writing of the name of each security guard, armed security guard or investigator who shall be on duty, the post and the hours of duty at such post.

§ 6-110. Travel Plaza Security

A licensee operating within a Travel Plaza wholly owned as an enterprise of the Muscogee (Creek) Nation may contract with the Travel Plaza for the gaming facility security, allowing the security of the Nation's Travel Plaza to also serve as the security for the gaming operation licensee within the Travel Plaza, provided that such contracts and amendments thereto, and security plans are reviewed and approved by the Commission.

SECTION SIX. AMENDMENT. The following Sub-Chapters and Sub-Sections of MCNCA Title 21, Chapter 8 are hereby amended to read as follows:

§8-102. Licenses required

C. Political jurisdictions may not enact a license-fee on horse racing and may not levy a tax on admission to races. This law vests exclusive control of the conduct of horse racing in the Commission and prohibits any political jurisdiction from enacting any license-fee on the conduct of such race meetings or on pari-mutuel wagering in connection therewith; and the levy of tax on admission of patrons of a track is prohibited.

§8-103. Wagering

Wagering must be conducted only by the licensee at the times determined by the Commission and only:

§8-104. Admission Charges

The Commission may set by regulation the admission charges to patrons for off-track or pari-mutuel betting.

§8-106. Regulations governing off-track pari-mutuel wagering

The Commission, after consultation with the Gaming Operations Authority Board, may adopt regulations for:

§8-107. Sharing of revenue

No person or governmental agency from outside this Nation may receive any commission or otherwise share in the revenue from the conduct of off-track pari-mutuel wagering in this Nation without the approval of the Commission. The Commission may approve any such person or governmental agency after such investigation as the Commission deems proper.

SECTION SEVEN. AMENDMENT. The following Sub-Chapters and Sub-Sections of MCNCA Title 21, Chapter 11 are hereby amended to read as follows:

§ 11-104. Gambling Premises.

D. When any property or premise for which one or more licenses, permits, or certificates issued by the Commission are in effect is determined by the Courts of the Muscogee (Creek) Nation to be a gambling premise all such licenses, permits, and certificates shall be void, and no license, permit, or certificate so cancelled shall be reissued for such property or premise for a period of six (6) months thereafter. Enforcement of this subsection shall be the duty of the Commission, the Muscogee (Creek) Nation Tax Commissioner, and any other taxing or licensing official of this Nation.

§ 11-105. Operating without a license

It shall be a crime to engage in gaming activities without the appropriate license, in violation of the terms imposed on the license, or in violation of this Title or Commission regulations. Each day of violation shall constitute a separate count or violation of this Title. This crime shall be punishable by incarceration for up to one year in jail and up to \$5,000 in fines or both.

§ 11-107. Forfeiture Proceedings

A. The Commission or a Muscogee (Creek) Nation Lighthouse Officer may seize any item subject to forfeiture immediately upon detection.

§ 11-108. Sanctions and Banishment

A. Sanctions. Any licensee who violates any of the provisions of this Title, Office of Public Gaming regulations, or conditions of their license shall be in violation of this title and, in addition to any criminal liability, is subject to a civil fine not to exceed \$1,000 per violation. Each day of violation shall constitute a separate violation of this Title. Licensees who violate the Title or Office of Public Gaming regulations may have their licenses suspended, revoked, or limited. Establishments in violation of this Title or Office of Public Gaming regulations may be forcibly closed. All such action shall be taken at the discretion of the Commission.

B. Temporary Banishment by General Manager or Authorized Security Personnel. The General Manager of any Muscogee (Creek) Nation gaming facility, including a gaming facility operated by a chartered Indian community or an authorized Security personnel of such a facility, may issue a temporary banishment notice prohibiting a person from entering any Muscogee (Creek) Nation gaming facility for a period not to exceed thirty (30) days. Said notice of temporary banishment may be served on any person, including a terminated gaming facility employee, who: (i) the General Manager or authorized Security personnel determines to be an immediate threat to the safety or economic welfare of the Nation's employees, patrons, or facilities, (ii) is observed to violate any provision of this Title of Office of Public Gaming Regulations at that facility, (iii) is observed to violate tribal, state, or federal law at the that facility, or (iv) is known to have been judicially or administratively determined to have violated any tribal, state or federal law while at any gaming activity, regardless of where located. A temporary banishment notice shall be served by providing a written notice stating the reason for the temporary banishment, the length of time of said temporary banishment and the person's right to a hearing before the Gaming Commission prior to the expiration of the temporary banishment order. The notice of temporary banishment shall be effective when delivered personally or be certified mail to the last known address of the subject of the temporary banishment notice. A copy of the notice of temporary banishment shall be delivered personally, by regular mail, electronic mail or by facsimile transmission to all Muscogee (Creek) Nation gaming facilities, including gaming facilities operated by chartered Indian communities and to the Gaming Commission within forty-eight (48) hours of issuance.

C. Gaming Commission Authority. The Gaming Commission is authorized to issue a final banishment order only after all conditions and requirements of sub-section C of § 11-108 have been met in either of the following circumstances:

1. The Gaming Commission is authorized to issue a final banishment order in appeal proceedings by the subject of a temporary banishment notice issued by the General Manager or Security Personnel of a gaming facility pursuant to subsection A of this section after affording a hearing to the appealing party in accordance with subsection C of this section; or
2. The Gaming Commission is also authorized to issue a final banishment order based on information obtained subsequent to delivery to the person a notice of temporary banishment stating the reason for temporary banishment, the length of time of said temporary banishment and the person's right to a hearing before the Gaming Commission prior to the expiration of the temporary banishment order; provided that the temporary banishment order issued by the Gaming Commissioner shall be effective immediately

and shall be served personally or sent by certified mail to the last known address of the subject of the temporary banishment notice.

D. **Final Banishment Order by the Gaming Commission.** The Gaming Commission may issue a final order banishing from the Nation's gaming facilities for a period not to exceed five (5) years to any person who the Commission determines: (i) is a potential threat to the safety or economic welfare of the Nation's employees, patrons or facilities, (ii) has violated any provision of this title or Office of Public Gaming regulation, (iii) has violated tribal, state or federal law while at any of the Nation's gaming facilities or (iv) has been judicially or administratively determined to have violated any tribal, state or federal law while at any gaming facility, regardless of where located. The Gaming Commission may issue a final banishment order only after notice of hearing is served on the person stating that if the person fails to appear and show cause why a final banishment order should not be issued, then final banishment order may be issued without right of judicial review. The Gaming Commission's final banishment order shall state specifically the reason for the banishment, the length of time of the banishment and the person's right, if any, to appeal the Gaming Commission's banishment order to the Court in accordance with the Procedural requirements of § 11-110 of this Title. The final banishment order shall be served personally or sent by certified mail to the last known address of the subject of the banishment order.

E. **Enforcement of Temporary Banishment Notice and Final Banishment Order.** Temporary banishment notices may be enforced as criminal trespasses pursuant to the Nation's Criminal Code. Final Banishment orders may be enforced by the Gaming Commission in accordance with any applicable provisions of this Title or as criminal trespasses pursuant to the Nation's Criminal Code.

§ 11-109. Administrative Enforcement Proceedings

A. **Service of Notice.**

1. The Commission shall initiate enforcement proceedings for any violation of this title or Office of Public Gaming regulations by serving on the person or the designated service agent of said person a Notice of Violation.
2. When the Commission denies a person a gaming license he shall serve that person with a Notice of Denial of Gaming License.

B. **Contents of Notice.**

1. The Notice of Violation shall state with reasonable particularity the nature of the violation or violations, the section or sections of this

title or of the Office of Public Gaming Regulations that the respondent has violated, and the action which the respondent must take to remedy the violation(s). The Notice shall also state that all such remedial action(s) must be completed within 10 days failing which, the Commission may take one or more of the actions described in subsection C of this section as appropriate to the nature of the violation. The Notice shall also state that the period for taking any remedial action may be extended for good cause at the sole discretion of the Commission for up to 60 additional days beyond the initial 10-day period, but no further extensions shall be allowed. The Notice of Violation shall also state that, in lieu of taking such remedial action, the respondent may serve upon the Commission a written Notice of Protest and Request for Hearing to demonstrate why no violation has occurred and/or why the proposed remedial action is incorrect or unauthorized in whole or in part.

2. The Notice of Denial of Gaming License shall state with reasonable particularity the nature of the denial including any applicable section or sections of this title or of the Office of Public Gaming Regulations. The Notice of Denial shall also state that the respondent may serve upon the Commission a written Notice of Protest and Request for Hearing to demonstrate why the Commission's decision is incorrect or unauthorized in whole or in part.

C. **Types of Enforcement Actions.** The Notice of Violation required in subsection B of this section shall include a description of the actions which may be taken by the Commission and the respondent's potential liability for civil fines and criminal prosecution, as appropriate to the nature of the specific violation involved, including without limitation the penalties specified in Section 1108 of this title and any other penalties specified in this title or the Criminal Offenses Code of the Muscogee (Creek) Nation.

D. **Remedial Action; Notice of Protest and Request for Hearing.** Upon receipt of the Notice of Violation, the respondent shall take all remedial action described therein within the time allowed or, in lieu of taking such remedial action, shall serve upon the Commission the written Notice of Protest and Request for Hearing described in subsection B of this Section.

E. **Notice of Hearing on Proposed Enforcement and/or Penalties.** In the event any respondent who has been served with a Notice of Violation fails to take all remedial action stated therein within the time allowed or to request a hearing as provided by subsection F. of this Section, the Commission shall serve such respondent

or the respondent's service agent with a Notice of Hearing on Proposed Enforcement and/or Penalties. Said Notice shall state the time and place of the hearing, the amounts of any proposed fines or other penalties, and/or describe any other enforcement action authorized hereunder, including without limitation, revocation or suspension of any license and the closure of the gaming facility. The Notice shall also state that if the respondent fails to appear and show cause why the proposed enforcement action should not be taken or the proposed fines and/or penalties assessed, then the respondent shall be conclusively deemed to have confessed to the violation(s) described in the Notice of Violation and that the proposed enforcement action and/or fines or penalties shall be taken and/or assessed against the respondent, without right of judicial review.

F. Hearing. The hearings authorized in this section shall be informal and shall be heard within 30 days from the Notice of Protest and Request for Hearing. The respondent shall be afforded the opportunity to explain and/or show cause to the Commission why no violation has occurred and/or why the proposed enforcement, fine or other penalty, or license denial is incorrect or unauthorized under this title. The respondent may be represented by counsel and the Commission may request attendance by the Office of the Attorney General and legal counsel in an advisory capacity. The Commission may render its decision at the conclusion of the hearing or at any time thereafter. The Commission may, in his discretion, postpone his decision in order to further investigate the violation and/or formulate the appropriate enforcement action and/or fine or penalty.

G. Commission's Decision. The Commission's order and decision rendered after the hearing shall be in writing and shall state, as appropriate, the following:

5. Any other enforcement action, conditions or requirements which the Commission may impose consistent with this title; and
6. A statement that the respondent possesses appeal rights pursuant to Section 1110 of this title and that the respondent may seek review of the Commission's decision by filing a Petition for Review of the Commission's decision with the Court of Muscogee (Creek) Nation within 30 days of said decision, failing which the decision shall be final and not subject to judicial review.

§ 11-110. Judicial review of Commission's decision

A. Petition for Review. Any person found by the Commission to have violated any provision of this title or Office of Public Gaming Regulation or any person whose application for gaming license has been denied, after hearing may seek review of the Commission's decision by filing a Petition for Review of the Commission's decision with the Courts of Muscogee (Creek) Nation within 30 days of said decision,

failing which the decision shall be final and not subject to judicial review. The Commission shall promptly file the full record of the proceeding, including the notice of appeal, with the Muscogee (Creek) Nation Courts.

B. **Standard for Review.** In hearing the appeal, the Muscogee (Creek) Nation Courts shall give proper deference to the administrative expertise of the Commission. The Muscogee (Creek) Nation Courts shall not set aside, modify, or remand any determination by the Commission unless it finds that the determination is arbitrary and capricious, unsupported by substantial evidence or contrary to law.

C. **Legal Representation.** The Petitioner may be represented by counsel in any proceeding or review by the Courts of the Muscogee (Creek) Nation, and the Commission shall be represented by the Attorney General or legal counsel.

D. **Court Decision.** The Muscogee (Creek) Nation Courts shall issue a written decision on all appeals. In no event shall the Court be authorized to award or order the payment of damages or to fashion any remedy against the Commission. In the event that the Court affirms the decision of the Commission or the Muscogee (Creek) Nation, the Court shall award costs and a reasonable attorney fee to the Office of Public Gaming with the provision that any part of the attorneys fee collected shall be paid to the Controller for use by the Office of the Attorney General.

E. **Appeal to Supreme Court.** If the petitioner receives an adverse decision from the Court, then the petitioner may appeal to the Muscogee Creek Nation Supreme Court within thirty (30) days after the Court enters the decision. The appeal shall be limited to the record on appeal. The decision of the Muscogee (Creek) Nation Supreme Court shall be final.

§ 11-111. Judicial Action by Commission

The Commission is hereby authorized to commence an action to collect any fines owed pursuant to this title, and may seek any civil remedies, including but not limited to garnishment, attachment, and execution, for the collection of any monies due to the Nation. Such action shall be commenced in the Courts of the Muscogee (Creek) Nation. Violation of orders of the Court shall be punishable by civil contempt, including fines and/or, in the event that the contempt or is an Indian, imprisonment. In the event the Court awards judgment in favor of the Commission, the Court shall award costs and a reasonable attorney fee to the Office of Public Gaming with the provision that any part of the attorneys fee collected shall be paid to the Controller for use by the Office of the Attorney General.

§ 11-113. Finality of Commission or Court Action

Any final finding or determination of the Commission not timely appealed, any final and unappealed determination of the Muscogee (Creek) Nation Courts, and any final Muscogee (Creek) Nation Supreme Court decision in proceedings pursuant to appeal shall be final and binding in any other proceeding against or by the same person before the Commission or the Courts of the Muscogee (Creek) Nation.

§ 11-114. Identity of Informant

The Commission may refuse to reveal, at any court proceeding, the identity of any informant, if such revelation would subject the informant to bodily harm.

SECTION EIGHT. AMENDMENT. MCNCA Title 21, §12-104., is hereby amended to read as follows:

§ 12-104. Conduct of operations

The Commission, Speaker of the National Council, and members of the Gaming Operations Authority Board shall take every measure necessary to insure that the Muscogee (Creek) Nation has conducted its gaming activity in such a manner which has resulted in an effective and honest accounting of all revenues; and has resulted in a reputation for safe, fair and honest operation of the activity; and has been generally free of evidence of criminal or dishonest activity; and insure that the Muscogee (Creek) Nation has adopted and is implementing adequate systems for accounting for all revenues from gaming activities, for investigation licensing and monitoring of all employees of the gaming activities, and for investigation, enforcement and prosecution of violations of Muscogee (Creek) Nation gaming laws and regulations; and has conducted the operations on a fiscally and economically sound basis.


SECTION NINE. The word "Commissioner" when used regarding Gaming anywhere in the Muscogee (Creek) Nation Codes Annotated, shall mean the three person Gaming Commission as established by this Chapter unless specifically referring to one gaming commissioner in a singular capacity.

SECTION TEN. EFFECTIVE DATE, COMMISSION APPOINTMENTS. This Act shall become effective on October 1, 2011 upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution and the National Indian Gaming Commission approval, if applicable, provided that provisions of § 2-102 shall become effective July 1, 2011 to allow the Principal Chief to submit nominations for Commissioners Two and Three to allow the Commission to be seated by October 1, 2011. The Gaming Commissioner (Commissioner One) confirmed on the date this law is enacted shall remain as a Commissioner for the remainder of his term in office.

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ENACTED by the Muscogee (Creek) National Council on this 26th day of February 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-Four members attending this meeting on the 26th day of February, 2011 and that the above is in conformity with the provisions therein adopted by a vote of 12 in favor, 11 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.



Terry A. Fish, 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 11-031 authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

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