

**TO APPROVE THE AMENDED AND RESTATED
CHOCTAW NATION BANKING, SAVINGS AND INVESTMENT ACT**

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

THOMAS WILLISTON INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO APPROVE the Amended and Restated Choctaw Nation Banking, Savings, and Investment Act.

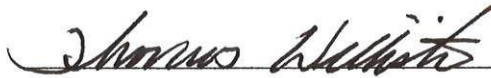
WHEREAS, in CB-61-11, the Tribal Council (the "Tribal Council") of the Choctaw Nation of Oklahoma (the "Nation") approved the Choctaw Nation Banking, Savings and Investment Act (the "Act"), and

WHEREAS, the Tribal Council has determined it is in the best interests of the Nation to modify certain provisions of the Act.


THEREFORE, BE IT ENACTED by the Tribal Council of the Choctaw Nation of Oklahoma that this Act be cited as approval for the Amended and Restated Choctaw Nation Banking, Savings, and Investment Act, as set forth in the attachment hereto, and that the original Act be replaced in its entirety by such Amended and Restated Choctaw Nation Banking, Savings, and Investment Act.

CERTIFICATION

I, the undersigned, as Speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that twelve (12) members answered the roll call and that a quorum was present at the Regular Session of the Tribal Council at Tushka Homma, Oklahoma on August 8, 2015. I further certify that the foregoing Council Bill CB-137-15 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero (0) members abstaining.



Thomas Williston, Secretary
Choctaw Nation Tribal Council



Delton Cox, Speaker
Choctaw Nation Tribal Council



Gary Batton, Chief
Choctaw Nation of Oklahoma

DATE: 8-14-15

THE AMENDED AND RESTATED
CHOCTAW NATION BANKING, SAVINGS AND INVESTMENT ACT

As stewards of the Choctaw Nation of Oklahoma (the "Nation" or the "Tribe"), the Tribal Council of the Nation (the "Tribal Council") has considered the significant growth in recent years of Tribal revenues and Tribal funds. The Nation is currently taking action to improve and expand its gaming operations to maximize revenue and also applying portions of the revenue to other ventures to diversify its revenue base. In addition, the Tribal Council considers it unwise to commit all Tribal revenues to spending, given that their source is uncertain and will change over time. Therefore, setting asides a portion of Tribal revenues in permanent funds represents effective stewardship and yet another building block toward Tribal self-sufficiency, to ensure quality services and opportunities for future generations. It is the intent of the Tribal Council to appropriate a portion of revenues each year for contribution to a permanent fund with such contributions considered irrevocable, subject to emergency provisions set forth herein.

Title 1. Adoption of Fiduciary Standards

The Chief of the Nation (the "Chief") shall, taking into account all appropriate industry and fiduciary standards, adopt in writing necessary polices and processes to assure effective management, protection and investment of the monetary assets of the Nation.

Title 2. Limited Waivers of Sovereign Immunity

- a. The Chief or his/her authorized designee is hereby authorized to approve limited waivers of the Nation's sovereign immunity (each a "Waiver") within service agreements with banking institutions, institutional brokerages, trust companies or other professional service providers utilized in the custody and management of the Nation's deposits and investments, the extent of which Waiver(s) shall be determined by the Chief or his/her authorized designee in his or her sole discretion; provided, however, no Waiver shall be valid unless and until set forth in a writing unanimously approved and executed by the Chief or his/her authorized designee..
- b. Nothing contained in this Title or in any Waiver is intended to, nor shall it be construed to, benefit any party other than as specified in any particular Waiver.
- c. Nothing contained in this Title or in any Waiver is intended to, nor shall it be construed to, waive the sovereign immunity of the Nation except as specifically set forth in any Waiver.
- d. Nothing contained in this Title or in any Waiver is intended to, nor shall it be construed to, waive the sovereign immunity of (i) any legally distinct and separate agency or affiliate of the Nation or (ii) any official acting on behalf of the Nation, or such agency or affiliate, and within the scope of his or her official authority.

- e. Any monetary recovery obtained through judicial action under any Waiver shall be limited to the assets of the Nation and shall not give any party any right to recover from the assets of any legally distinct and separate agency or affiliate of the Nation.
- f. Nothing contained in this Title shall authorize the Chief or his/her authorized designee to waive the sovereign immunity of the Nation with respect to issuance of debt, except as authorized pursuant to Title 3.

Title 3. Authorization of Permanent Fund

- a. **Fund Authorization:** There is hereby authorized the Choctaw Nation of Oklahoma Permanent Fund (the "Fund"). The Fund shall be utilized to account for all resources contributed to it, including revenues earned on fund assets. The Fund is established for the purpose of ensuring the availability of resources to finance essential Tribal government services and programs. The Fund shall be accounted for and reported as a permanent fund.
- b. **Contributions to the Fund:** Primary contributions to the Fund shall be by appropriation from available revenues of the Nation by the Tribal Council together with all earnings thereon from the time of such contribution. In addition, the Fund is authorized to accept such donations or grants to the Fund as are made by individuals, foundations and other entities, provided that the use of such donations or grants are restricted only by policies of the Tribal Council.
- c. **Management of Fund Assets:** The Chief shall establish policies for the management of assets placed in the Fund, including appropriate custody and investment directives. Assets of the Fund may be held and invested in common with other Nation funds having similar investment objectives and constraints, provided that net assets and earnings are properly allocated and reported for the Fund.
- d. **Authorized uses of the Fund:** The single authorized use of the Fund, subject to emergency provisions, shall be to provide investment earnings to finance governmental activities and services of the Nation.
- e. **Authorization of use of Fund revenues:** The authorization of use of Fund revenues (investment earnings) shall be by appropriation pursuant to Tribal budget. Amounts appropriated for use pursuant to the annual budget shall be transferred to the General Fund, to finance authorized budget expenditures. Expenditures may be matched to Fund revenues, but shall not be required, nor shall any determination of actual spending be required.
- f. **Amount available for appropriation:** The amount of Fund revenue appropriated for use in any fiscal year shall not exceed an amount that is equal to the most recently reported Fund balance times the sum of the average annual projected investment earnings of the Fund as stated within the appropriate investment policy statement minus the rate of inflation for the preceding year. Inflation shall be measured based on the change in the Consumer Price Index, U.S. City Average

for All Urban Consumers, published by the United States Department of Labor or other inflation measure selected by the Chief.

g. Eligible Funding Sources:

i. Perpetually Authorized - The following sources are available to Executive Management on an on-going basis, subject to the most recently approved Revenue Allocation Plan, Tribal Budgets, and the following conditions:

a. Margin Borrowing: Provided the Fund is custodied in an institutional brokerage account governed by Regulation T limits on margin borrowing, the Chief may authorize margin borrowing in the Fund for the following purposes:

1. If funds are needed for immediate liquidity and current investments are not sufficiently liquid to clear existing or expected outflows; or
2. In order to invest in short term secure instruments that have a yield 2% or greater above the margin borrowing rate; or
3. Funding of approved Capital Projects, in which case current investment may achieve a return advantage by investing in a longer time horizon.

b. Reserve Funds may be utilized at the discretion of Executive Management subject to the most recently approved Revenue Allocation Plan and Tribal Budgets.

ii. Individually Authorized – In each instance, these sources will be presented to Tribal Council for approval and limited waivers on a case-by-case basis:

- a. Direct Bank Loan
- b. Bond Issuance
- c. Private Loan

h. Emergency use of the Fund:

In the event that the Tribal Council determines that a financial emergency exists, the severity of which threatens life, property, or the financial stability of the Nation, the Tribal Council may, by affirmative vote of not less than 8 members of the Tribal Council, declare an emergency and approve emergency appropriations from the Fund.

In the event that emergency expenditures are made from the Fund, the Tribal Council shall appropriate from available Tribal revenues to reimburse the Fund, as soon as such revenues are available.