



June 3, 2019

Michael G. Phelan, Esq.
Pokagon Band of Potawatomi Indians
Pokagon Gaming Authority
Office of General Counsel
P.O. Box 180
Dowagiac, MI 49047-9329

Re: Pokagon Band Gaming Regulatory Act amendments

Dear Mr. Phelan:

This is to inform you that the Pokagon Band of Potawatomi Indians Gaming Regulatory Act (Gaming Ordinance) amendments enacted by the Tribal Council resolutions: 18-12-17-02 and 19-02-19-06, submitted to the National Indian Gaming Commission Chair on February 26, 2019, are approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act, the NIGC Chair has ninety days from the date of submission to either approve or disapprove a gaming ordinance.¹ Any ordinance not acted upon at the end of the ninety day period is considered approved by the Chair to the extent it is consistent with the provisions of IGRA.² Because no action was taken by the Chair within the ninety-day period, the Tribe's ordinance is considered approved to the extent it is consistent with IGRA. It is the opinion of the Office of General Counsel that the Gaming Ordinance amendments are fully compliant with the requirements of IGRA.

If you have any questions, please feel free to contact Senior Attorney Maria Getoff at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig". The signature is fluid and cursive, with a long horizontal line extending from the end.

Michael Hoenig
General Counsel

¹ 25 U.S.C. § 2710(e).

² *Id.*



**Pokégnek Bodéwadmik · Pokagon Band of Potawatomi
Tribal Council**

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(269) 782-6323 • (888) 376-9988 toll free • (269) 782-9625 fax

**AMENDMENTS TO THE GAMING REGULATORY ACT TO THE CHAIRMAN OF THE NATIONAL
INDIAN GAMING COMMISSION (“NIGC”)**

TRIBAL COUNCIL

RESOLUTION NO. 19-02-19-06

WHEREAS: The Pokagon Band of Potawatomi Indians of Michigan and Indiana is a sovereign, federally-recognized Indian tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and

WHEREAS: The Pokagon Band is organized under a constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005 (“Constitution”); and

WHEREAS: In accordance with P.L. 103-323 and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Pokagon Band; and

WHEREAS: The Tribal Council is vested with the sovereign powers of the Band not inconsistent with any provisions of the Constitution, including without limitation those enumerated powers set forth in Article IX, Section 2, of the Constitution; and

WHEREAS: By adoption of Tribal Council Resolution No. 07-02-07-01, the Tribal Council enacted the Pokagon Band of Potawatomi Indians Gaming Regulatory Act for the purpose of establishing a regulatory program governing all Class I, Class II, and Class III gaming within the Pokagon Band’s jurisdiction, as those terms are defined in the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.); and

WHEREAS: By Tribal Council Resolution No. 07-05-12-04, the Tribal Council enacted certain technical amendments to the Gaming Regulatory Act; and

WHEREAS: By letter dated June 1, 2007, the National Indian Gaming Commission (“NIGC”) notified the Pokagon Band that pursuant to 25 U.S.C. § 2710 (b)(1)(B) the NIGC had approved the Gaming Regulatory Act, as amended; and

WHEREAS: By adoption of Tribal Council Resolution No. 18-12-17-02, the Tribal Council enacted technical amendments to Section 10.12 of the Gaming Regulatory Act to clarify the rights of ownership of unclaimed winnings upon satisfaction of best efforts requirements and expiration of the specified waiting period; and

WHEREAS: Amendments promulgated by the NIGC to Title 25 of the Code of Federal Regulations, Section 556 (effective June 22, 2015) and 558 (effective April 29, 2013) require compliance with those sections for all tribal gaming ordinances and ordinance amendments submitted to the NIGC Chair for approval on or after February 25, 2013.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council enacts the amendments to the Gaming Regulatory Act set forth in the attached version of the Gaming Regulatory Act with all language to be struck from the Act shown with a strikethrough and all language to be added to the Act shown with a double underline.

AND BE IT FURTHER RESOLVED that the Pokagon Band Gaming Commission shall maintain and ensure compliance with 25 C.F.R. §§ 556.2(b) and 556.3(b).

AND BE IT FURTHER RESOLVED that the Tribal Council directs the Tribal Chairman or Tribal Vice Chairman to arrange for the prompt submission of the amendments to the Gaming Regulatory Act to the Chairman of the National Indian Gaming Commission ("NIGC") for review and approval in accordance with the requirements of Section 11 of the Indian Gaming Regulatory Act (25 U.S.C. § 2710 et seq.).

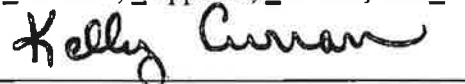
AND BE IT FURTHER RESOLVED that the Gaming Regulatory Act as approved by the NIGC by letter dated June 1, 2007 pursuant to 25 U.S.C. § 2710 (b)(1)(B) shall remain in full force and effect and the foregoing amendments shall only become effective as Pokagon Band law upon their approval by the NIGC.

CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened Special meeting of the Tribal Council held on the 19th day of February 2019 by a vote of 7 in favor, 0 opposed, 3 absent, and 0 abstaining.



Matthew Wesaw
Tribal Council Chairman



Kelly Curran
Tribal Council Secretary



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Tribal Council

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TRIBAL COUNCIL

RESOLUTION NO. 18-12-17-02

WHEREAS: The Pokagon Band of Potawatomi Indians of Michigan and Indiana is a sovereign, federally-recognized Indian tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and

WHEREAS: The Pokagon Band is organized under a constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005 ("Constitution"); and

WHEREAS: In accordance with P.L. 103-323 and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Pokagon Band; and

WHEREAS: The Tribal Council is vested with the sovereign powers of the Band not inconsistent with any provisions of the Constitution, including without limitation those enumerated powers set forth in Article IX, Section 2, of the Constitution; and

WHEREAS: By Tribal Council Resolution No. 07-02-07-01, the Tribal Council enacted the Pokagon Band of Potawatomi Indians Gaming Regulatory Act for the purpose of establishing a regulatory program governing all Class I, Class II, and Class III gaming within the Pokagon Band's jurisdiction, as those terms are defined in the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*); and

WHEREAS: By Tribal Council Resolution No. 07-05-12-04, the Tribal Council enacted certain technical amendments to the Gaming Regulatory Act; and

WHEREAS: By letter dated June 1, 2007, the National Indian Gaming Commission ("NIGC") notified the Pokagon Band that pursuant to 25 U.S.C. § 2710 (b)(1)(B) the NIGC had approved the Gaming Regulatory Act, as amended; and

WHEREAS: The Tribal Council has determined Tribal Council has determined that certain additional technical amendments to Section 10.12 of the Gaming Regulatory Act are necessary and desirable.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby enacts the amendments to the Gaming Regulatory Act set forth hereunder with all language to be struck from the Act shown with a strikethrough and all language to be added to the Act shown with a double-underline.

Section 10.12 Unclaimed Winnings.

- (a) Known Patron. Any winnings, whether property or cash, which are due and payable to a Patron, and which remain unclaimed, shall be held in safekeeping for the benefit of such Patron if the Patron's identity is known. The Commission shall use, or require the Gaming Operation to use, its best efforts to deliver such winnings to the Patron determined with reasonable certainty by the Commission or the Gaming Operation as entitled to the winnings. Such winnings shall be held for twelve (12) months or such longer period as the Commission deems reasonable in consideration of all relevant facts and circumstances. At the end of the safekeeping period, such winnings shall revert to the Tribe ownership of the Gaming Operation and shall be transferred to the account or place designated by the Tribe Gaming Operation.
- (b) Unknown Patron. In the event the identity of a Patron entitled to unclaimed winnings in excess of \$100.00 is unknown, the Commission shall use, or require the Gaming Operation to use, its best efforts to learn the identity of the Patron. If the identity of the Patron entitled to the winnings can be determined with reasonable certainty, the Commission shall use, or require the Gaming Operation to use, its best efforts to deliver such winnings to the Patron. However, if after three (3) months from the time the winnings were payable, the Commission has been unable to identify the Patron, such winnings shall revert to the Tribe ownership of the Gaming Operation and shall be transferred to the account or place designated by the Tribe.

End of Amendments

AND BE IT FURTHER RESOLVED that the Tribal Council directs the Tribal Chairman or Tribal Vice Chairman to promptly submit the amendments to the Gaming Regulatory Act to the Chairman of the National Indian Gaming Commission ("NIGC") for review and approval in accordance with the requirements of Section 11 of the Indian Gaming Regulatory Act (25 U.S.C. § 2710).

AND BE IT FURTHER RESOLVED that the Gaming Regulatory Act as approved by the NIGC by letter dated June 1, 2007 pursuant to 25 U.S.C. § 2710 (b)(1)(B) shall remain in full force and effect and the foregoing amendments shall only become effective as Pokagon Band law upon their approval by the NIGC.

CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened Special meeting of the Tribal Council held on the 17th day of December, 2018 by a vote of 10 in favor, 0 opposed, 0 absent, and 0 abstaining.



Matthew Wesaw
Tribal Council Chairman



Kelly Curran
Tribal Council Secretary