



May 11, 2018

*Via U.S. Mail & E-mail*

Zeke Fletcher  
Fletcher, PLLC  
333 Albert Avenue Suite 631  
East Lansing, MI 48823

**Re: Muscogee (Creek) Nation Amended Class II & III Gaming Ordinance, National Council Act 18-012**

Dear Mr. Fletcher:

This is to inform you the Muscogee (Creek) Nation Gaming Code enacted by National Council Act 18-012, submitted to the NIGC February 8, 2018, is 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.<sup>1</sup> Any ordinance not acted upon at the end of the ninety day period is considered to have been approved by the Chair to the extent it is consistent with the provisions of IGRA.<sup>2</sup> 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 Code is fully compliant with the requirements of IGRA.

If you have any questions, please feel free to contact NIGC Associate General Counsel Heather Corson.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig".

Michael Hoenig  
General Counsel

cc: By E-mail only:  
Kevin Dellinger, Muscogee (Creek) Nation Attorney General  
(email: [kdellinger@mcnag.com](mailto:kdellinger@mcnag.com))  
Yvonne Tiger, Gaming Operations Authority Board Legal Counsel  
(email: [ytiger@campbelltiger.com](mailto:ytiger@campbelltiger.com))

---

<sup>1</sup> 25 U.S.C. § 2710(e).

<sup>2</sup> *Id.*



**NCA 18-012**

**CLASSIFICATION: #21. GAMING**

**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING NCA 17-081 (A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 21, ENTITLED "GAMING" AND CREATING A NEW TITLE 21, ENTITLED "GAMING")**

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

**SECTION ONE. AMENDMENT.** This amendment shall be codified in Title 21 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

**SECTION TWO. AMENDMENT.** NCA 17-081 is hereby amended to read as follows:

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

A. In 2015, the National Indian Gaming Commission ("NIGC") issued Bulletin No. 2014-2 and offered a revised Model Gaming Ordinance to assist tribes with meeting the ordinance requirements of the Indian Gaming Regulatory Act ("IGRA") and the NIGC's regulations promulgated to implement the provisions of IGRA.

B. To ensure the Nation's compliance and consistency with IGRA and NIGC regulations the repeal of Title 21 is necessary and replacing the law utilizing the NIGC's Model Gaming Ordinance as the foundation for the new law will ensure compliance and consistency.

**SECTION TWO. REPEALER.** MCNCA Title 21, Entitled "Gaming" is hereby repealed.

**SECTION THREE. NEW LAW.** The following new law shall be codified in Title 21, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of

the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:

**TITLE 21. GAMING**  
**CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

**§ 1-101. Purpose**

The National Council of the Muscogee (Creek) Nation is empowered by Art. VI of the Constitution of the Muscogee (Creek) Nation to enact laws, hereby enacts this law in order to govern and regulate the operation of Class II and Class III gaming operations on the Nation's Indian lands.

**§ 1-102. Applicability**

Unless specifically indicated otherwise, all provisions of this law shall apply to Class II and Class III gaming on the Nation's Indian lands.

**§ 1-103. Definitions**

The following terms shall have the same meaning and effect as those same terms are defined in the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq., and the National Indian Gaming Commission ("NIGC") regulations, 25 C.F.R. §§ 500 et seq., if they are defined in IGRA and the NIGC's regulations.

A. "Class I gaming" means those gaming activities as defined as Class I gaming in IGRA at 25 U.S.C. § 2703(6), and the NIGC's regulations at 25 C.F.R. § 502.2.

B. "Class II gaming" means those gaming activities as defined as Class II gaming in IGRA at 25 U.S.C. § 2703(7), and the NIGC's regulations at 25 C.F.R. § 502.3.

C. "Class III gaming" means those gaming activities as defined as Class III gaming in IGRA at 25 U.S.C. § 2703(8), and the NIGC's regulations at 25 C.F.R. § 502.4.

D. "Commission" means the Muscogee (Creek) Nation Public Gaming Commission established to perform regulatory oversight and to monitor compliance with tribal, federal and applicable state regulations.

E. "Commissioner" means an individual Muscogee (Creek) Nation Public Gaming Commissioner.

F. "Directly related to" means a spouse, child, parent, grandparent, grandchild, aunt, uncle or first cousin.

G. "Facility License" means a separate license issued by the Nation to each place, facility or location on Indian lands where the Nation elects to allow Class II or Class III gaming.

H. "Gaming Employee" means any Key Employee, any Primary Management Official or any other person employed by the Gaming Operation who performs gaming related activities, including those persons whose employment duties require or authorize access to restricted gaming related areas of the gaming facility. Gaming Support Employees are not Gaming Employees.

I. "Gaming Operation" means each economic entity that is licensed by the Nation, operates the games, receives the revenues, issues the prizes and pays the expenses. A gaming operation may be operated by the Nation directly; by a management contractor; or, under certain conditions, by another person or entity.

J. "Gaming Services" means the providing of any amount of services, supplies, or equipment unique to the operation of gaming, in an amount exceeding \$25,000.00 in any year to a Gaming Operation in connection with the operation of Class II or Class III gaming. For purposes of this definition and the definition of Gaming Vendor, "unique to the operation of gaming" means any Gaming Services that are used or provided that are specific of the operation of a gaming facility. Examples of vendors that do not provide Gaming Services under this definition include, but are not limited to, publicly-traded entities, entertainers or entertainment companies, public utilities, entities licensed or regulated by the State of Oklahoma, media entities (television, radio, billboard, etc), and other professional services.

K. "Gaming Support Employee" means any employee or person employed by the Gaming Operation who performs employment duties that are not gaming related activities and do not meet the definition of "Gaming Employee," including employees having access to non-public areas but not restricted related areas of the gaming facility. Gaming Support Employees are not subject to licensure by the Commission.

L. "Gaming Vendor" means such entity or supplier that provides any amount of services, supplies, or equipment unique to the operation of Class II or Class III gaming in the gaming facility in an amount exceeding \$25,000 in any year.

M. "Indian lands" means lands eligible for gaming as defined in 25 U.S.C. § 2703(4), and 25 C.F.R. § 502.12.

N. "Key Employee" means:

1. A person who performs one or more of the following functions:
  - a. Bingo caller;
  - b. Counting room supervisor;
  - c. Chief of security;
  - d. Custodian of gaming supplies or cash;
  - e. Floor manager;
  - f. Pit boss;
  - g. Dealer;
  - h. Croupier;
  - i. Approver of credit; or
  - j. Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
3. If not otherwise included, the four most highly compensated persons in the gaming operation; or
4. Any other person designated by the Nation as a Key Employee.

O. "Licensee" means a tribally owned Class II or Class III gaming operation or a person licensed by the Muscogee (Creek) Nation Public Gaming Commission as a Primary Management Official, Key Employee or other gaming employee under the provisions of this law.

P. "Management Contract" means any contract, subcontract or collateral agreement between the Nation and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

Q. "Nation" means the Muscogee (Creek) Nation.

R. "Net Revenues" means gross gaming revenues of an Indian gaming operation less:

1. Amounts paid out as, or paid for, prizes; and
2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

**S. "Primary Management Official" means:**

1. The person(s) 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 operation; or
  - c. The chief financial officer or other person who has financial management responsibility.
3. Any other person designated by the Nation as a Primary Management Official.

**T. "Tribal-State Compact" means an agreement between the Nation and a state about Class III gaming under 25 U.S.C. § 2710(d).**

**§ 1-104. Gaming Authorized.**

Class II and Class III gaming are authorized to be conducted on the Nation's Indian lands, if such gaming is conducted in accordance with this law, IGRA, the NIGC's regulations and any other applicable laws or regulations.

**§ 1-105. Ownership of Gaming**

**A.** The Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

**B.** The Nation shall not allow or authorize individually owned gaming within the jurisdictional boundaries of the Nation.

**§ 1-106. Use of Net Gaming Revenues**

**A.** Net revenues from tribal gaming shall be used only for the following purposes:

1. To fund tribal government operations or programs;

2. To provide for the general welfare of the Nation and its members;
3. To promote tribal economic development;
4. To donate to charitable organizations; or
5. To help fund operations of local government agencies.

## **CHAPTER 2. MUSCOGEE (CREEK) NATION PUBLIC GAMING COMMISSION**

### **§ 2-101. Establishment of the Muscogee (Creek) Public Gaming Commission**

A. The Nation hereby establishes the Muscogee (Creek) Nation Public Gaming Commission ("Commission") to regulate the Nation's gaming operations. The Commission shall consist of three (3) members, including a Chair, Vice-Chair and at least one additional Commissioner that will perform functions on a part-time (or as needed) basis. All Commissioners shall be citizens of the Muscogee (Creek) Nation.

B. The Commission shall appoint an Executive Director of the Commission. The Executive shall be responsible for the day-to-day management of the affairs of the Commission. A detailed background investigation shall be conducted on the Director before appointment. The Executive Director shall perform all duties, exercise all powers, and assume and discharge all responsibilities imposed by this Code. The Commission shall maintain oversight of the Director on an ongoing basis. The Executive Director shall not have any personal interest in any gaming operations.

C. The Commission, via the Executive Director, will conduct oversight to ensure compliance with tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted, but reasonable, access to all areas of the gaming operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

D. Two of the Commissioner positions shall be filled by nomination by the Principal Chief and consent of the National Council via Tribal Resolution. The National Council via Tribal Resolution shall make the third Commissioner appointment.

E. Terms of office for Commissioners shall be four (4) year terms with no holdovers and shall be staggered so that with the enactment of this Code, one of the Principal Chiefs nominations shall be for a two (2) year initial term.

F. The following persons are not eligible to serve as Commissioners: members of the National Council; current employees of the gaming operation; gaming contractors (including any principal of a management or other contracting company); persons directly related to, or sharing a residence with, any of the above; and persons ineligible to be Key Employees or Primary Management Officials. The Nation shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.

G. The Nation recognizes the importance of an independent gaming regulatory entity in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the Nation in all matters within its purview. No prior, or subsequent, review by the Nation of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Nation requires that, at a minimum:

1. No officials of the Nation or of the Gaming Operations Authority Board ("GOAB") may serve concurrently on the Commission;
2. No member directly related to, or living with, any National Council member or member of the GOAB may serve on the Commission;
3. Members of the Commission are prohibited from gambling in the facility;
4. Commissioners are prohibited from accepting complimentary items from the gaming operation, excepting food and beverages valued under \$50; and
5. Commissioners may only be removed from office, prior to the expiration of their respective terms, as provided in MCNCA Title 31.

H. Nominees for Commissioner positions must satisfy the eligibility standards set forth for Primary Management Officials and Key Employees found in § 4-108 of this Act. All requisite background investigations shall be performed under the direction of the Office of the Attorney General.

I. The Commission, via the Executive Director, shall:

1. Conduct background investigations, or cause such investigations to be conducted, for Primary Management Officials and Key Employees;
2. Review and approve all investigative work conducted in connection with the background investigations of Primary Management Officials and Key Employees;



3. Create and maintain investigative reports based on the background investigations of Primary Management Officials and Key Employees;
4. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
5. Make licensing eligibility determinations, which shall be signed by the Chair of the Commission;
6. Submit a notice of results to the NIGC of the background investigations done for each Primary Management Official and Key Employee applicant;
7. Issue gaming licenses to Primary Management Officials and Key Employees of the operation, if warranted by the eligibility determination;
8. Establish standards for licensing tribal gaming facilities;
9. Issue gaming licenses to tribal gaming facilities;
10. Inspect, examine and monitor all of the Nation's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
11. Ensure compliance with all tribal, state and federal laws, rules and regulations regarding Indian gaming;
12. Investigate any suspicion of wrongdoing associated with any gaming activities;
13. Hold hearings on patron complaint appeals in accordance with procedures established in this ordinance and the tribal gaming regulations;
14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any Tribal-State Compact to which the Tribe is a party, and any other applicable law;
15. Promulgate and issue regulations necessary to comply with applicable internal control standards;
16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any tribal, federal or state gaming regulations, if applicable;
18. Establish a list of persons not allowed to game in the Nation's gaming facilities in order to maintain the integrity of the gaming operation;
19. Establish a list of persons who have voluntarily agreed to be excluded from the tribal gaming facility, and create regulations for enforcing the exclusions;

20. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
21. Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy;
22. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
23. Perform such other duties the Commission deems appropriate for the proper regulation of the tribal gaming operation; and
24. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance.

J. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the Principal Chief, the National Council, the Office of the Attorney General, the GOAB, and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner that comments on the proposed action shall be received by the Commission. All regulations adopted or amended by the Commission shall be approved by Tribal Resolution of the National Council before such regulations become effective.

K. The Commission shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of GOAB management, human resource personnel and/or others employed by the GOAB on a need-to-know basis, for actions taken in their official capacities.

L. The confidentiality requirements in § 2-101(J) of this Chapter, above, do not apply to requests for such records or information from any tribal, federal or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.

M. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the

Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.

N. Commissioners shall be compensated at a level determined by the National Council and the Principal Chief and consistent with the Commissioners performing their functions on a part-time (or as needed) basis. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.

O. The Commission shall keep a written record of all its meetings.

### **CHAPTER 3. AUDITS**

#### **§ 3-101. Audits**

A. The Nation shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC. Annual audits shall conform to generally accepted auditing standards.

B. All Gaming Services pursuant to Section 1-103(J) contracts that exceed \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under subsection (A) of this Chapter.

C. Copies of the annual audit of each licensed gaming operation, and each audit for Gaming Services of each gaming operation, shall be furnished to the NIGC within one hundred twenty (120) days after the end of each fiscal year of the gaming operation.

### **CHAPTER 4. LICENSING**

#### **§ 4-101. Facility Licenses**

A. The Commission shall issue a separate license to each place, facility or location on Indian lands where Class II or Class III gaming is conducted under this Act. No gaming shall occur on lands within the jurisdiction of the Muscogee (Creek) Nation unless such license is issued by the Commission.

B. The Commission is responsible for issuing new or renewed facility licenses to each place, facility or location.

C. The Commission shall require that a facility license application be completed by the Chief Executive Officer of the GOAB for each gaming place, facility or location.

D. The Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and specify the form, conditions and content of a facility license application. The application shall include:

1. A legal description of the lands upon which the facility is located, and;
2. A certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.

E. The Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Nation.

F. The Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Commission. This notice must be submitted at least one hundred twenty (120) days before the opening of any new place, facility or location on Indian lands where Class II or Class III gaming will occur.

G. The facility license notice shall contain the information and documentation set forth in 25 C.F.R. § 559.2(b).

H. The Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within thirty (30) days of issuance, along with any other required documentation.

I. The Commission shall notify the NIGC Chair within thirty (30) days if a facility license is terminated or expires, or if a gaming place, facility or location closes or reopens.

#### **§ 4-102. License Application Forms**

A. The following notice shall be placed on the tribe's license application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

**In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized**

by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a Primary Management Official or Key Employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

B. The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before it is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

#### **§ 4-103. License Fees**

The Nation may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

#### **§ 4-104. Fingerprints**

The Commission shall perform a background investigation for each Primary Management Official and Key Employee of the gaming operation. The Nation shall request fingerprints from each Primary Management Official and Key Employee. Fingerprints shall be taken by Commission. Fingerprints will then be forwarded to the NIGC for processing through the Federal Bureau of Investigation ("FBI") and the National Criminal Information Center to determine the applicant's criminal history, if any.

**§ 4-105. Background Investigations**

A. The Nation shall perform a background investigation for each Primary Management Official and Key Employee in its gaming operation.

B. The Commission is responsible for conducting the background investigations of Primary Management Officials and Key Employees.

C. The Commission shall obtain from each Primary Management Official and Key Employee all of the following information:

1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages spoken and/or written);
2. Currently, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses and driver's license numbers;
3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (C)(2) of this section;
4. Current business and residential telephone numbers and all cell phone numbers;
5. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses;
6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in the businesses;
7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10)

years of the date of the application, and is not otherwise listed pursuant to paragraphs (C)(8) or (C)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;

11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A current photograph.
13. Any other information the Nation deems relevant; and
14. Fingerprints obtained in accordance with procedures adopted by the Nation pursuant to 25 C.F.R. § 522.2(h).

D. When a Primary Management Official or Key Employee is employed by the Tribe, a complete application file, containing all of the information listed in § 4-105(C), shall be maintained.

#### **§ 4-106. Procedures for Conducting Background Investigations**

A. The Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a Primary Management Official or Key Employee position. The investigation must be sufficient to allow the Commission to make an eligibility determination under § 4-108 of this Act. The investigator shall:

1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
2. Contact each personal and business reference provided in the license application, when possible;
3. Conduct a personal credit check;
4. Conduct a civil history check for past or outstanding judgments, current liens, past or pending lawsuits and any other information deemed to be relevant;
5. Conduct a criminal history records check by submitting the applicant's fingerprints to the NIGC or to another law enforcement agency for forwarding to the FBI to perform a criminal history records check utilizing the FBI's database;
6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past ten (10) years;

7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

**§ 4-107. Investigative Reports**

A. The Tribe shall create and maintain an investigative report for each background investigation of a Primary Management Official or Key Employee.

B. Investigative reports shall include all of the following information:

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

**§ 4-108. Eligibility Determinations**

A. Before a license is issued to a Primary Management Official or Key Employee, an authorized Commission official shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.

B. If the authorized Commission official, in applying the standards adopted in this ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a Key Employee or Primary Management Official position.

C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a Primary Management Official or Key Employee.

**§ 4-109. Notice of Results of Background Investigations**

A. Before issuing a license to a Primary Management Official or Key Employee, the Commission shall prepare a notice of results of the applicant's



background investigation to submit to the NIGC. The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working for the Tribe.

B. The notice of results shall include the following information:

1. The applicant's name, date of birth, and social security number;
2. The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
3. A summary of the information presented in the investigative report, including:
  - a. licenses that have previously been denied;
  - b. gaming licenses that have been revoked, even if subsequently reinstated;
  - c. every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
  - d. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
4. A copy of the eligibility determination made in accordance with § 4-108.

#### **§ 4-110. Granting Gaming Licenses**

A. All Primary Management Officials and Key Employees of the gaming operation must have a gaming license issued by the Nation. Gaming Support Employees are not subject to the licensure provisions of this Act.

B. The Commission is responsible for granting and issuing gaming licenses to Primary Management Officials and Key Employees.

C. The Commission may license a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by this Chapter.

D. The Commission shall notify the NIGC of the issuance of a license to a Primary Management Official or Key Employee within thirty (30) days of issuance.

E. The GOAB shall not employ an individual in a Primary Management Official or Key Employee position who does not have a license after ninety (90) days of beginning work at the gaming operation.

F. The Commission must reconsider a license application for a Primary Management Official or Key Employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within thirty (30) days of the NIGC receiving a notice of results of the applicant's background investigation. The Commission shall take the NIGC's objections into account when reconsidering a license application.

G. The Commission will make the final decision whether to issue a license to an applicant for a Primary Management Official or Key Employee position.

H. If the Commission has issued a license to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by § 4-111.

#### **§ 4-111. Denying Gaming Licenses**

A. The Commission shall not license a Primary Management Official or Key Employee if an authorized Commission official determines, in applying the standards in § 4-108 for making a license eligibility determination, that licensing the person:

1. Poses a threat to the public interest;
2. Poses a threat to the effective regulation of gaming; or
3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.

B. When the Commission does not issue a license to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued license after reconsideration, it shall:

1. Notify the NIGC; and
2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

#### **§ 4-112. Gaming License Suspensions and Revocations**

A. If, after a license is issued to a Primary Management Official or a Key Employee, the Nation receives notice from the NIGC that the Primary Management Official or Key Employee is not eligible for employment, the Commission shall do the following:

1. Immediately suspend the license;

2. Provide the licensee with written notice of the suspension and proposed revocation; and
3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

B. The right to a revocation hearing vests only when a license is granted under an ordinance approved by the NIGC Chair.

C. Following a revocation hearing, the Commission shall decide whether to revoke or reinstate the license at issue.

D. The Commission shall notify the NIGC of its decision to revoke or reinstate a license within forty-five (45) days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.

#### **§ 4-113. Records Retention**

A. The Commission shall retain, for no less than three (3) years from the date a Primary Management Official or Key Employee is terminated from employment with the Nation, the following documentation:

1. Applications for licensing;
2. Investigative Reports; and
3. Eligibility Determinations.

#### **§ 4-114. Licenses for Vendors**

Vendors of Gaming Services, with a value of \$25,000 or more annually, must have a vendor license from the Commission in order to transact business with the Gaming Operation. Contracts for professional legal and accounting services and any persons or entities not meeting the definition of Gaming Services or Gaming Vendor are excluded from licensure pursuant to this section.

#### **§ 4-115. Submission of a Vendor License Application**

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners and non-institutional stockholders that either own ten percent (10%) or more of the business' stock or are the ten (10) largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the tribe, if applicable.

#### **§ 4-116. Contents of the Vendor License Application**

**A. Applications for gaming vendor licenses must include the following:**

- 1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business and type of service(s) applicant will provide;**
- 2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;**
- 3. If the applicant is a corporation, the state of incorporation and the qualification to do business within the jurisdiction of the Nation, if the gaming operation is in a different state than the state of incorporation;**
- 4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;**
- 5. General description of the business and its activities;**
- 6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and, if so, how much;**
- 7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;**
- 8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;**
- 9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;**
- 10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;**
- 11. If the business has ever had a license revoked for any reason, the circumstances involved;**
- 12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;**
- 13. A list of the business' funding sources and any liabilities of \$50,000 or more;**
- 14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles and percentage of ownership in the company; and**

15. Any further information the Nation deems relevant.

B. The following notice shall be placed on the application form for a vendor and its principals:

**Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Nation's vendor license.**

C. A vendor may submit to the Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed and any information requested by the Commission not contained in the other application.

#### **§ 4-117. Vendor Background Investigations**

The Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

A. Verification of the vendor's business' incorporation status and qualifications to do business in the state where the gaming operation is located;

B. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;

C. Conducting a check of the vendor's business' credit history;

D. Calling and questioning each of the references listed in the vendor application; and

E. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report and interviewing the personal references listed.

#### **§ 4-118. Vendor License Fees**

The Nation may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

#### **§ 4-119. Vendor Background Investigation Reports**

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Commission.

**§ 4-120. Exemption for Vendors Licensed by Recognized Regulatory Authorities**

The Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

**CHAPTER 5. PATRON DISPUTE RESOLUTION**

**§ 5-101. General Managers Responsibility**

It shall be the responsibility of the general manager of a particular gaming facility, or the general manager's designee, to resolve such patron disputes as may be initiated by a patron arising from the conduct of play at such facility.

**§ 5-102. Name Display**

The name of the general manager with responsibility for a specific gaming facility shall be prominently displayed at such gaming facility.

**§ 5-103. Manager's Designee**

At all times, when the general manager is not available, said general manager shall designate a specific person as the manager designee for purposes of dispute resolution and the name of the person so designated at that specific time shall also be prominently displayed. Such designee shall act in place of the manager to resolve disputes during the time authorized.

**§ 5-104. Notice of Dispute**

Any aggrieved patron shall immediately provide notice of the employee(s) involved and, if unsatisfied by the result, thereupon must bring such grievance to the attention of the general manager or to the general manager's designee.

**§ 5-104. Delays in Reporting**

Any delay in reporting such a dispute to the gaming manager, or designee, may be considered by the gaming manager as a mitigating factor against the grievance. Failure to report the grievance during the session at which the grievance allegedly arose may,

at the discretion of the manager or designee(s), justify the summary dismissal of the grievance.

**§ 5-105. Manager's Decision**

Except where circumstances require further investigation or consultation, the manager/designee shall deliver the decision during the session at which the grievance is brought to their attention. Upon request of the patron, the manager/designee's decision shall be made in writing and time stamped.

**§ 5-106. Initial Review**

Where the manager/designee's decision is delayed beyond the session at which the grievance allegedly arose, the time of the appeal shall be five (5) days from the date the manager/designee delivers the decision.

**§ 5-107. Appeal**

A patron who has timely submitted a grievance for resolution by the manager/designee and who is dissatisfied with the result may appeal such decision to the Commission.

**§ 5-108. Requirements of Appeal**

Such patron appeal shall be in writing, contain a statement of the facts and the grounds for the appeal and shall be delivered or postmarked within five (5) days of the date the manager/designee delivers the decision.

**§ 5-109. Patron Dispute Resolution**

In the event a patron appeals the decision of a manager/designee in a timely fashion, the Commission shall hold a hearing within thirty (30) days of receipt of the patron's complaint. The patron may have counsel present at the hearing. The patron may be allowed to present evidence, at the discretion of the Commission. After the hearing, the Commission shall render a decision in a timely fashion within thirty (30) days of the hearing. All such decisions will be final when issued. All claims by patrons shall be limited to a maximum recovery, per occurrence, of what the facility insurance will cover for such an event and a cumulative limit of per patron in any twelve (12) month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. The Commission's decision shall constitute the patron's final remedy.

**§ 5-110. Notice of Procedures**

Notice of these dispute resolution procedures or a summary thereof shall be posted at each gaming facility, and shall contain the address for the notices to be delivered to.

## **CHAPTER 6. GENERAL PROVISIONS**

### **§ 6-101. Environment and Public Health and Safety**

A. Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.

B. The Commission shall identify laws, resolutions, codes, policies, standards or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

### **§ 6-102. Agent for Service of Process**

The Nation designates the Principal Chief as the agent for service of any official determination, order or notice of violation with a copy to the Office of the Attorney General.

### **§ 6-103. Tribal Access to Financial Information**

A copy of the GOAB's annual audit will be made available for review, upon request, to the Muscogee (Creek) National Council.

### **§ 6-104. Compliance with Federal Law**

The Nation shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 et seq.

### **§ 6-105. Repeal**

To the extent that they are inconsistent with this Act, all prior laws under Title 21 are hereby repealed.

### **§ 6-106. Interpretation of Title**

The provisions of this Title, being necessary for the welfare of the Nation and its inhabitants, shall be liberally construed to effect the purpose and object hereof. Article and section headings contained herein shall not be deemed to govern, limit, modify or in



any manner affect the scope, meaning or intent of the provisions of any article or section hereof.

**§ 6-107. Severability**

The provisions of this Title are severable and if any part or provision hereof shall be held void by a court of competent jurisdiction, the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of the Title.

**§ 6-108. Effective Date**

This Act shall take effect immediately upon its approval by the NIGC Chair.

**CHAPTER 7. ENFORCEMENT PROVISIONS**

**§ 7-101. Policy**

It is hereby declared to be the policy of the Muscogee (Creek) Nation, recognizing the close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from unlicensed gambling activities in this Nation; to restrain all person from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press; and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public and do not breach the peace. All the provisions of this Title shall be liberally construed to achieve these ends, and administered and enforced with a view to carrying out the above declaration of policy.

**§ 7-102. Participating in unlicensed gambling**

**A. It shall be a crime to:**

- 1. engage in, solicit, or induce another to engage in unlicensed gambling; or**
- 2. engage in or knowingly cause, aid, abet, or conspire with another to engage in unlicensed professional gambling.**

**B. It shall be an affirmative defense for a natural person to participate in any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in unlicensed professional gambling. This crime shall be punishable in accordance with MCNCA Title 14 §1-601.**

**§ 7-103. Possession of unlicensed gambling device**

It shall be a crime to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair or transport any unlicensed gambling device, or offer or solicit any interest therein; whether through an agent, employee or otherwise. If a person is also in possession of an unlicensed gambling record, such person shall be presumed to be in knowing possession of the gambling device. This crime shall be punishable in accordance with MCNCA Title 14 §1-601.

**§ 7-104. Gambling premises**

A. It shall be a crime to own, lease, employ, operate, occupy, or otherwise knowingly maintain, aid, or permit an unlicensed gambling premise. This crime shall be punishable in accordance with MCNCA Title 14 §1-601.

B. All unlicensed gambling premises are common nuisances and shall be subject to abatement by injunction or as otherwise provided by law. In any action brought under this subsection the plaintiff need not show damages and may, in the discretion of the court, be relieved of all requirements as to giving security.

C. When any property or premise is determined to be an unlicensed gambling premise, an owner, who does not have knowledge of the illegal use, shall have the right to terminate all interest of anyone holding the same under him.

D. When any property or premise for which one or more licenses, permits, or certificates issued by the Nation are in effect is determined by the District Court 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 Commissioner, the Muscogee (Creek) Nation Tax Commissioner, and any other taxing or licensing official of this Nation.

**§ 7-105. 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 Commissioner regulations. Each day of violation shall constitute a separate count or violation of this Title. This crime shall be punishable in accordance with MCNCA Title 14 §1-106.

**§ 7-106. Property subject to forfeiture**

The following property is subject to forfeiture by the Muscogee (Creek) Nation:

- A. All unlicensed gambling devices;
- B. All property, including money and other things of value, used in connection with professional gambling or maintaining a gambling premise;
- C. All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenance of improvement thereto, which is used, or intended to be used, in any manner or part in connection with unlicensed professional gambling; and
- D. Winnings received in violation of this Title.

**§ 7-107. Forfeiture proceedings**

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

B. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Office of the Attorney General of the Muscogee (Creek) Nation, subject only to the orders and decrees of the court. All seized property shall be held as evidence until the Attorney General files a notice of seizure and intended forfeiture with the District Court of the Muscogee (Creek) Nation or the property is released.

C. Notice shall be given to all owners of the seized property. Anyone contesting the forfeiture of the property shall answer the notice with a verified petition within forty-five (45) days after notice been received. If at the end of forty-five (45) days there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the property forfeited to the Muscogee (Creek) Nation, if such fact is proved. If a verified answer is filed, the forfeiture proceedings shall be set for hearing.

D. At a hearing in a proceeding against real property seized in accordance with this Code, the proof of the unlawful activity shall be satisfied by the Muscogee (Creek) Nation by a preponderance of the evidence. The claimant of any right, title, or interest in the property may prove his lien, mortgage or conditional sales contract to be a bona fide or innocent ownership interest and that his right, title, or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged. In the event of such proof, the court shall order the property released to the bona fide or innocent owner, lien holder, mortgage, or vendor if the amount due him is equal to, or in excess of, the value of the property as of the date

of the seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the Muscogee (Creek) Nation and sold under judgment of the court, as on sale execution, in accordance with law.

E. All property forfeited shall be destroyed, sold at public auction, or utilized by the Commission. Bona fide liens against property so forfeited shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property. Forfeited monies and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the Muscogee (Creek) Nation and deposited in the Treasury of the Muscogee (Creek) Nation.

#### **§ 7-108. Sanctions and Banishment**

Any licensee who violates any of the provisions of this Title, Commission 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 one thousand dollars (\$1,000) per violation. Each day of violation shall constitute a separate violation of this Title. Licensees who violate this Title or Commission regulations may have their licenses suspended, revoked, or limited. Establishments in violation of this Title or Commission regulations may be forcibly closed. Any such action shall be taken at the discretion of the Commissioner.

A. Temporary banishment by General Manager or authorized security personnel.

The General Manager (or Manager on Duty) of any Muscogee (Creek) Nation gaming facility 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 (whether written or verbal) may be issued upon any person, including a terminated gaming facility employee, who: (i) the General Manager (or Manager on Duty) 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 Code or Commission regulation at that facility, (iii) is observed to violate Tribal, state, or federal law at 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 facility, regardless of where located.

B. Self-Exclusions; Permanent Banishment; Commission authority.

In the event a person submits a written notice of self-exclusion or the General Manager (or Manager on Duty) of any Muscogee (Creek) Nation gaming facility or an authorized security personnel of such a facility issues a permanent banishment notice, such person shall be permanently banned from all Muscogee (Creek) Nation gaming facilities. (For purposes of clarification, this subsection B does not apply to temporary banishments issued under subsection A). Any permanent banishment notice shall be served by providing a written notice stating the reason for the permanent banishment and the person's right to a hearing before the Commission. The notice of permanent banishment shall be effective when delivered personally or by certified mail to the last known address of the subject of the temporary banishment notice. A copy of the notice of permanent 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 Commission within forty-eight (48) hours of issuance. After receipt that the notice of permanent banishment is received upon service or delivery by mail the banishment remains in effect until expiration of such banishment or the Commission revokes a permanent banishment pursuant to the appeal process herein. The Commission is authorized to issue a final banishment order only after all conditions and requirements of subsection C of § 7-108 of this Title have been met.

**C. Final banishment order by the Commission.**

The 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 Code or Commission regulations, (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 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 a final banishment order may be issued without right of judicial review. The 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 Commission's banishment order to the District Court in accordance with the procedural requirements of § 7-110 of this Code. 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.

**D. 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 Commission

in accordance with any applicable provisions of this Code or as criminal trespasses pursuant to the Nation's Criminal Code.

**§ 7-109. Administrative enforcement proceedings**

**A. Service of notice.**

1. The Commission shall initiate enforcement proceedings for any violation of this Title or Commission 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 Commission 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 ten (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 sixty (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 on 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 Commission Regulations. The Notice of Denial shall also state that the respondent may serve on 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 Title 21, § 7-108 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 Commissioner 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 D 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. The respondent shall be afforded the opportunity to explain and/or show cause to the Commissioner 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 in an advisory capacity. The Commission may render his 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:

1. The nature of any violation(s) of this Title;
2. The sections of this Title violated by the respondent;
3. Whether any license acquired by the respondent shall be revoked suspended, limited, or denied and, if so, the date on which the revocation, suspension, limitation or denial shall be effective and the duration of any suspension or limitation so ordered;
4. The amount of any fine or penalty assessed;
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 Title 21, § 7-110 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 District Court of Muscogee (Creek) Nation within thirty (30) days of said decision, failing which the decision shall be final and not subject to judicial review.

**§ 7-110. 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 Commission regulation after hearing may seek review of the Commission's decision by filing a Petition for Review of the Commission's decision with the District Court of the Muscogee (Creek) Nation within thirty (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 District Court.

**B. Standard for review.**

In hearing the appeal, the Muscogee (Creek) Nation District Court shall give proper deference to the administrative expertise of the Commission. The Muscogee (Creek) Nation District Court 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 District Court, and the Commission shall be represented by the Attorney General.

**D. District Court decision.**

The Muscogee (Creek) Nation District Court 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 District Court affirms the decision of the Commission or the Muscogee (Creek) Nation, the Court shall award costs and a reasonable attorney fee to the Commission with the provision that any part of the attorney 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 District Court, then the petitioner may appeal to the Muscogee (Creek) Nation Supreme Court within thirty (30) days after the District 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.

**§ 7-111. 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 District Court 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 contemtor 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 Commission with the provision that any part of the attorney fee collected shall be paid to the Controller for use by the Office of the Attorney General.

**§ 7-112. Service of notices and other documents**

Any notice or other document required to be served hereunder shall be hand-delivered to the person to be served or sent by certified mail to the office or place of business of said person to be served. In the case of service by mail, service shall be complete upon the date of receipt or refusal to accept delivery by certified mail.

**§ 7-113. 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 District Court, 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 District Court of the Muscogee (Creek) Nation.


**§ 7-114. 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 THREE. EFFECTIVE DATE.** This Act shall become effective upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution and sixty (60) days after the Nation receives notice of the National Indian Gaming Commission's approval of the Act.

**ENACTED** by the Muscogee (Creek) National Council on this 27<sup>th</sup> day of January, 2018.

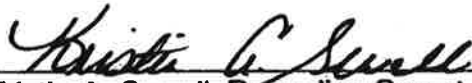
**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



\_\_\_\_\_  
Lucian Tiger III, Speaker  
National Council  
Muscogee (Creek) Nation

**CERTIFICATION**

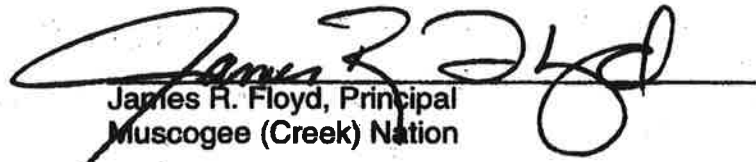
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Fourteen members attending this meeting on the 27<sup>th</sup> day of January, 2018 and that the above is in conformity with the provisions therein adopted by a vote of 13 in favor, 0 against, 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.



\_\_\_\_\_  
Kristie A. Sewell, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 2nd day of February, 2018 to the above Law, **NCA 18-012** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

  
James R. Floyd, Principal  
Muscogee (Creek) Nation

