



**DRAFT** – Proposed Amendments and Revisions  
(Changes noted in color, underlined, or struck through)

**HO-CHUNK NATION CODE (HCC)  
TITLE 1 – ESTABLISHMENT ACTS  
SECTION 3 – DEPARTMENT OF BUSINESS  
ESTABLISHMENT AND ORGANIZATION ACT OF 2001**

**ENACTED BY LEGISLATURE: MARCH 7, 2001**

**LAST AMENDED: APRIL 7, 2015**

**CITE AS: 1 HCC § 3**

*This Act supersedes the Department of Business Establishment and Organization Act of 1995 (HCNL 004-95) as enacted by the Legislature on 11/14/95 and amended on 09/06/96, 02/03/09 and 04/07/15.*

**1. Authority.**

a. Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive Branch to be administered by such Departments in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power.

c. Article V, Section 2(c) of the Constitution grants the Legislature the power to constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature.

d. Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget.

e. Article VI, Section 1(b) of the Constitution requires a Department of Business.

f. Article VI, Section 2(d) of the Constitution grants the President the power to administer all Departments, boards, and committees created by the Legislature.

**2. Purpose.** The Legislature establishes and organizes a Department of Business as required by the Constitution of the Ho-Chunk Nation. *The Legislature shall retain oversight, pursuant to Article V, Sections 2(b) and 2(q) of the Constitution, of those business enterprises organized and established by the Legislature or a federally chartered corporation owned by the Nation, including business enterprises organized pursuant to the Nation's laws, 25 U.S.C. § 477 or the laws of any other jurisdiction, unless otherwise delegated by the Legislature or prescribed by law.*

**3. Mission.** The Ho-Chunk Department of Business shall maximize the profitability of all the Department of Business' enterprises through effective management and administration, and foster an environment in which the Nation and tribal members can grow and develop a tribal economy. In doing so, the Department shall safeguard the interests of the Nation, enhance the sovereignty of the Nation, and exercise stewardship over those resources committed to it by the Nation and foreign jurisdictions.

**4. Functions.** The Department of Business shall:

- a. Promote Self Determination
- b. Increase Market Value, efficiency, and profitability
- c. Contribute to economic, social and environmental development
- d. Protect all physical, financial, intangible, and human assets

## **5. Principles:**

In carrying out its Mission and Functions, the Department of Business will be guided by the following principles:

Principle 1: Respect for our Tribe

A responsible business under this Act demonstrates respect for the Ho-Chunk Nation by: (a) acknowledging its duty to contribute value to society through the wealth and employment it creates and the products and services it provides to consumers, (b) maintaining its economic health and viability not just for tribal members, but also for its stakeholder communities, and (c) respecting the interests of, and acting with honesty and fairness towards, its customers, employees, suppliers, competitors, and the broader community.

Principle 2: Responsibility to our tribal communities

A responsible business under this Act demonstrates responsibility toward tribal communities by: (a) recognizing that business cannot sustainably prosper in societies that are failing or lacking in economic development, (b) contributing to the economic, social and environmental development

of the communities in which it operates, in order to sustain its essential ‘operating’ capital – financial, social, environmental, and all forms of goodwill, and (c) enhancing society through effective and prudent use of resources, free and fair competition, and innovation in technology and business practices.

### Principle 3 – Responsibility and Trust

A responsible business under this Act demonstrates responsibility and trust by: (a) recognizing that some business behaviors, although legal, can nevertheless have adverse consequences for stakeholders, (b) adheres to the spirit and intent behind the law, as well as the letter of the law, which requires conduct that goes beyond minimum legal obligations, (c) always operating with candor, truthfulness, and transparency, and keeps its promises, (d) respects the local cultures and traditions in the communities in which it operates, consistent with fundamental principles of fairness and equality, and (e) respects all applicable national and international laws, regulations and conventions, while trading fairly and competitively, wherever it operates.

### Principle 4 – The Environment

A responsible business under this Act shall take account of the environment by: (a) protecting and, where possible, improving the environment, and avoiding wasteful use of resources and (b) ensuring that its operations comply with best environmental management practices consistent with meeting the needs of today without compromising the needs of future generations.

### Principle 5: Illegal activity

A responsible business under this Act avoids illegal activity by: (a) not participating in, or condoning, corrupt practices, bribery, money laundering, or other illicit activities, (b) not participating in, or facilitating, transactions linked to or supporting terrorist activities, drug trafficking or any other illicit activity, and (c) actively supporting the reduction and prevention of all such illegal and illicit activities.

6. Definitions: (Note: Add the following, most of which will be found in the UCC, Tax, Leasing codes etc.)

Assets (4 types):

Equity:

Investments:

Margins:

Profits:

Marketshare:

market valuation:

perceptual measures:

efficiency:

trademark:  
licensor:  
licensee:  
ROIC:  
ROI:  
Business plan:  
OIBD:  
Market Capitalization:  
Capital Investment Model:  
UCC code:  
Leasing code:  
LLC code:

## 7. Internal Organization.

a. ~~The Department of Business shall consist of the government services~~Enterprise  
Division, and Business Enterprise Gaming Divisions, Ho-Chunk Small Business  
Administration. These Divisions will be supervised and overseen by the Executive Director of  
Business and the Department of Business Board of Directors, respective of their authority and  
duties. of the Ho—Chunk Nation.

b. ~~The Enterprise government services d~~Division, whose purpose is to provide revenue  
and/or services to the Nation and/or its members, shall consist of all non – gaming related  
registered companies of the Ho – Chunk Nation owned businesses, regardless of corporate  
structure. Subject to applicable law, all businesses within the Enterprise Division shall be  
registered companies under Ho-Chunk Nation Law. The registration of an Enterprise Division  
business with any foreign jurisdiction shall be approved by the Ho-Chunk Nation Legislature.  
Each registered company shall have a business plan and budget and shall report on a monthly  
basis to the Legislature or Legislative Finance Committee pursuant to the reporting process of  
the Department of Business, or as allowed by tribal law. The government services Enterprise  
Division shall employ staff professionals, support personnel, and/or contract with professional  
services consistent with the Nation’s Finance Manual, other laws of the Nation, and be governed  
by the Board of Directors, President, and Legislative approved budgetary authority.

c. ~~The Business Enterprise Gaming Division, whose purpose is to provide revenue for the~~  
Nation, shall consist of all gaming related companies, including Class I, II and -III gaming  
operations. Each gaming related company shall have a business plan and budget which is  
subject to approval by the Legislature and shall report on a monthly basis to the Legislature or  
Legislative Finance Committee pursuant to the reporting process of the Department of Business,  
or as allowed by tribal law. The business enterprise Gaming Devision shall employ staff  
professionals, support personnel, and/or contract with professional services consistent with the  
Nation’s Finance Manual, other laws of the Nation, and be governed by the Board of Directors,

President, and Legislative approved budgetary authority, shall be governed by the Business board of Directors, President, and Legislative approved budgetary authority

d. The Ho-Chunk Nation Small Business Administration, whose purpose is to foster a tribal economy within the Nation and surrounding communities **for the ultimate benefit of tribal members and the Nation**, shall consist of programming, grants and services to individual tribal members and such non-tribal members who will enhance the tribal economy and satisfy the Principles of this Act. Each program and/or service shall have a business plan and budget that is accepted by the Legislature and shall report on a monthly basis to the Legislature or Legislative Finance Committee pursuant to the reporting process of the Department of Business, or as allowed by tribal law. The Ho-Chunk Nation Small Business Administration shall employ staff professionals, support personnel, and/or contract with professional services consistent with the Nation's Finance Manual, other laws of the Nation, and be governed by the Board of Directors, President, and Legislative approved budgetary authority.

e. The Department of Business shall maintain a current Organizational Chart. **The Organizational Chart shall accompany its annual budget submission to the Legislature and shall be done in compliance with applicable law.**

## **6. Executive Director and Board of Directors.**

### a. Executive Director.

(1) The Executive Director shall be appointed by the President and confirmed by the Legislature. **The Executive Director shall be a full-time employee and paid compensation commensurate with his or her skills, education, experience, and responsibilities and within the standards of compensation established by the Legislature.**

(2) **The Executive Director shall be responsible for carrying out the mission of the Department of Business and each of its Divisions. The Executive Director the government services division and shall be responsible for submitting, implementing and operating within ing\_ within the annually appropriated budget for the Department of Business and each of the Divisionthe government services division of the Department of Business department.**

(3) **The Executive Director shall be responsible for implementing the policy directives from the Board of Directors for the Department of Business and each of its divisions. The Executive Director shall serve as the direct line of communication between the Department of Business and the Board of Directors and is responsible for reporting to the Board.** The Executive Director shall serve as an ex officio member of the Department of Business Board of Directors.

(4) **The Executive Director shall carryout the duties assigned to them by the President concerning the administration and implementation of the Nation's budget that**

are consistent with the policy directives established by the Board of Directors. The Executive Director is responsible for employing staff within the Department of Business and each of the divisions.

~~(5) The Executive Director shall be responsible for the business enterprise division, reporting to the President and Board of Directors, and shall be responsible for operating within the annually appropriated budget for the business enterprise services division of the Business department.~~

b. Board of Directors. The President shall ~~establish~~nominate Directors to serve on the Board of Directors for the Department of Business subject to confirmation by the Legislature ~~pursuant to paragraph 1e.~~ Upon a vacancy on the Board of Directors, the President shall have 60 days to submit their nomination for Board of Directors to the Legislature. The Legislature shall then ~~accept or deny the nomination at the next regular meeting of the Legislature.~~ IF the nomination is accepted, the Legislature shall then have 60 days to conduct a background check on the nominee, ~~conduct any appropriate hearing,~~ and either confirm or deny the nominee as a Director. If the Legislature, does not accept the nomination or denies the confirmation of a Director by the President, the President then has 20 days to nominate a new Director to fill the vacancy. If at any time there is a vacancy on the Board of Directors and the President fails to nominate a Director within 60 days of the opening or within 20 days of the denial of a nomination or denial of confirmation, the Legislature then as 20 days to nominate a Director by ~~resolution.~~ Upon the Legislature nomination of a Director, the Legislature has 60 days to compete a background check and either confirm or deny the nominee. If the Legislature denies a ~~Legislative~~ nomination or denies a confirmation, it then has 20 days to nominate another Director.

(1) Role. ~~The Board of Directors shall serve in a policy - making capacity for each of the Department of Business Divisions both the Government services division and the Business Enterprise division and for all matters referred by the Executive Director.~~

(a) ~~The Board shall be a policy making board for the Government services and business enterprise division of the Business Department and will be responsible for the creation and bylaws, approved by the Legislature.~~

~~(a)(b)~~ The Ho-Chunk Nation Legislature shall have no direct involvement in the business affairs fo the Board of Directors, except for any authority reserved or delegated to the Legidalrue uner the Ho-Chunk Nation Constitution or the laws of the Ho-Chunk Nation.

(c) The Board, its authority, power, and composition are as follows:

- The Ho-Chunk Nation Constitution
- Any By – laws adopted to govern its conduct and operation
- Any Strategic Plans duly adopted
- The Nation’s UCC code, or such UCC Code as may apply
- The Nation’s Leasing code
- The Nation’s Tax code
- Such Ho-Chunk Nation Business Enterprise and Gaming Employment codes in effect from time to time

With respect to the Enterprise Division, the Board is authorized to purchase, lease, contract, own, manage, encumber or dispose assets when such action is consistent with the needs of the enterprise, within the budget of the enterprise, authorized by law, or upon specific authorization of the Legislature.

Composition: the Board shall consist of five (5) members but the total number may thereafter be increased or decreased at any time by through a request to, and approval by, the Legislature. At least 40% of the Board shall be Ho-Chunk members. If at any time a vacancy on the Board causes there to be less than 40% membership by Ho-Chunk Nation members, the Legislature may immediately appoint a temporary Director, regardless of required qualifications, until such vacancy is filled permanently.

(d) The Board shall ~~be consulted during~~ approve and recommend to the Office of the President the the Department’s annual goals and objectives required pursuant to the *Appropriations and Budget Process Act*.

(2) Qualifications.

- (a) All Board members shall be at least 25 years old.
- (b) The President and Legislature may give preference in the nomination and confirmation process of Director to t persons who have a commitment to Tribal economic development and a background, experience and expertise in related or relevant areas of business, finance or merchandising.
- (c) The Board shall be comprised of members who have professional credentials, background, minimum of 7 years of experience and education in one or more of the following areas:
  - a. Banking and/or Finance
  - b. experience as a CEO and possesses a Master’s in Business Administration (MBA) or other similar education designation
  - c. Securities and/or Investment background

~~a-d.~~ Experience and certification as a CFO, CPA and/or similar designation

~~e.~~ Attorney with appropriate experience, education and background in business and/or gaming. Directors shall have the requisite skills, knowledge, and education to provide professional and expert advice and recommendations to the Executive Director.

f. Gaming experience.

(d) The Board must include one Director with requisite gaming experience at all times.

(e) All Directors shall obtain a gaming license, issued by the Nation's Gaming Commission.

(f) A Director shall not be an employee of the Department of Business.

(g) A Director shall not be a member of more than two (2) department Boards of Directors.

(h) Whether a Director can be an immediate family member of a Legislator, the President, or the appointed staff of the President shall be controlled by the *Open Meetings Act* (2 HCC § 2).

(3) Terms. Directors shall serve 5 year terms, staggered, with one seat up every calendar year, beginning on July 1, 2017. ~~Directors shall serve two (2) year terms and may serve for more than one (1) term. The terms shall be alternated so that two (2) Directors are appointed or reappointed after the first year and every two (2) years thereafter and three (3) Directors are appointed/re-appointed in the alternate years.~~

(4) Compensation. The Board of Directors will establish the rate pursuant to their Bylaws, and as approved by the Legislature (approved via the budget). ~~A Director must be present for a majority of the Meeting to receive compensation.~~

(5) Board Meetings.

(a) The Board of Directors shall meet at least twice a year and for special meetings as required and subject to the Board's By-Laws.

(b) Board Meetings shall be subject to the Nation's *Open Meetings Act*, except as provided herein; provided, the Board may call a meeting at any time regardless of posting requirements. For any meeting called, the Board must provide advance notice to the Executive Director of Business.



(c) Quorum. Quorum for the Board of Directors shall be ~~three (3)~~ sixty percent (60%) of the total number of five (5) Directors. Quorum must be attained and maintained to conduct business and the Directors to be eligible for compensation. Attendance by video or telephonic means is an acceptable form of participation and shall count for quorum.

(d) Minutes. The Board shall record their meetings in writing. Minutes shall be submitted to the Office of the President and the Legislature within 30 days of any meeting taking place.

(6) Every twelve (12) months the Board shall elect a Chairperson.

(7) The Directors shall be subject to the Nation's law regarding nepotism and conflicts of interest.

## **8. Removals.**

The President may remove a Director for cause, on his own initiative, or a majority of the Board may recommend removal of a Director to the President at any time.

## **9. Strategic Planning and Reporting**

a. The Executive Director of the Department of Business, confirmed by the Legislature, shall be responsible for creating a comprehensive strategic plan for the Department within six (6) months of his/her confirmation. This strategic plan shall at a minimum consist of the Departmental Mission Statement, goals of the Department in support of that mission, the actions necessary to achieve those goals, and a timeline to regularly review and update the strategic plan as necessary. The plan will be presented to Legislature upon completion. The plan will also be presented to the Department Board of Directors.

b. On a semi-annual basis, with *(1) October for the first semi-annual review (October-November); and (2) March for the second semi-annual review (March-April)*, the Executive Director shall provide an update on progress made towards annual goals and objectives as defined in the strategic plan, as well as the goals and objectives requested in the annual budget request made in accordance with the Budget and Appropriations Act (2 HCC§ 4).

c. The Executive Director will conduct an annual review of the Departmental Strategic Plan, and make updates or revisions based on the department's achievement, or lack of progress, regarding the completion and fulfillment of the department's strategic goals and objectives for the

previous fiscal year. The updated plan shall be presented to the Legislative Development Committee upon completion. The updated plan shall also be presented to the Department Board of Directors upon completion.

**10. Annual Report to the Nation.** The Department of Business shall submit through the President to the Legislature a final written annual report within thirty (30) days of the end of each fiscal year. It will report on the activities of the Department, achievement of the goals and objectives for the previous fiscal year, and the impact, if any, of fiscal constraints on its current goals and objectives.

---

Legislative History:

- |          |   |
|----------|---|
| 03.15.95 | Presented to the Legislature by the President and referred to the Business, Corporate and Economic Development Committee.   |
| 10.14.95 | Adopted by Legislature.   |
| 09.06.96 | Amended by Legislature.   |
| 03.07.01 | Enacted as 1 HCC § 3 by Legislative Resolution 03/07/01C.   |
| 03.16.04 | Amended and Restated by Legislative Resolution 3/16/04B reducing quorum for the Board of Directors from 4 to 3 and requiring Director vacancies to be posted in the Hocak Worak prior to filling.   |
| 10.21.08 | Legislature places out proposed Amendments for forty-five day public comment solely surrounding issue of immediate family of Legislators, President, and Appointed Presidential staff serving on the Board of Directors.  |
| 02.03.09 | Resolution 02/03/09F Amends and Restates Act to allow immediate family of Legislators, President, and Appointed Presidential staff to serve on the Board of Directors.  |
| 11.08.14 | Legislature adopts resolution 11/08/14R placing proposed amendments to the Department of Business Establishment and Organization Act of 2001 out for forty-five day public comment.   |
| 04.07.15 | Legislature adopts amendments via resolution 04/07/15G.   |
| 02.07.17 | Legislature adopts Resolution 02.07.17W placing all Establishment and Organization Acts out for Forty-Five Day Public Comment.  |
| 04.04.17 | Legislature approves extending the comment period for all Establishment and Organization Acts for another Forty-Five Day Public Comment period, and agrees to include draft amendments to the Business Department Establishment Act from the Section 16 Economic Diversification Legislative Workgroup. |