

*****DEFEATED RESOLUTION*****
HO-CHUNK NATION LEGISLATURE
QUICK PASSAGE OF AMENDMENTS TO HOME OWNERSHIP
AND BENEFIT HOUSING PROGRAM FOR THE GENERAL
WELFARE OF NON-ELDERS ACT (8 HCC § 5)
RESOLUTION 4- 06-10 G

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation (“Nation”) is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Ho-Chunk Nation Legislature (“Legislature”) the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** 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; and
- WHEREAS,** Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and
- WHEREAS,** Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its Legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and
- WHEREAS,** the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11); and
- WHEREAS,** the *Legislative Organization Act* provides the procedures for enacting and amending a Ho-Chunk Nation law; and
- WHEREAS,** section 30 of the *Legislative Organization Act* provides Quick Passage Procedures; and
- WHEREAS,** under certain limited circumstances, Section 30 provides “[t]he Legislature may vote to immediately pass Legislation.”; and
- WHEREAS,** section 30 of the *Legislative Organization Act* in relevant parts provides:
- (2) For the Legislation to be considered for Quick Passage the Legislature must conclude:
- (a) The Legislation must take effect immediately to address a situation that:
- 1 Adversely affects the health, safety, welfare, or economic well-being of the Nation;
 - 2 Adversely affects a person or multiple people for which Legislative relief is deemed appropriate and necessary by the Legislature;
 - 3 Is internal to the operation of the Government; or
 - 4 Impacts negotiations with a sovereign entity; and

(b) Adherence to the Normal Legislation Process outlined in Section 31 would result in a delay that would adversely impact the Nation, a Member of the Nation, or Members of the Nation.

WHEREAS, section 30 of the *Legislative Organization Act* provides “[f]or the Legislation to immediately become the law of the Nation it will require an affirmative vote of more than two-thirds (2/3) of Legislators present at the Legislative Session.”; and

WHEREAS, the Legislature adopted the *Home Ownership and Benefit Housing Program for the General Welfare of Non-Elders Act* (8 HCC § 5), which was last amended on October 6, 2009; and

WHEREAS, the purpose of the *Home Ownership and Benefit Housing Program for the General Welfare of Elders Act* is to “establish[] the Ho-Chunk Nation's *Home Ownership and Benefit Housing Program for the General Welfare of Non-Elders*, also known as the Home Ownership Program (HOP) to be administered by the Department of Housing. It sets forth the terms and features of the Financing Plans, which the Nation provides for the benefit of Tribal members, and the necessary rules to administer the HOP.”; and

WHEREAS, “[t]he mission of the Ho-Chunk Nation Department of Housing is to assist Tribal members in obtaining housing that meets generally accepted standards of safety, decency, sanitation, and comfort. 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.”; and

WHEREAS, the HOP establishes a current dollar limits on project financing for HOP homes in the amount of up to \$125,000.00; and

WHEREAS, this maximum dollar amount for project financing makes it difficult for Tribal Members living in metropolitan areas to use the project financing in order to be able to obtain housing that satisfies the HOP’s mission and “meets generally accepted standards of safety, decency, sanitation, and comfort”; and

WHEREAS, this problem is exacerbated because except for various homeownership grants a tribal member is not able to obtain a second mortgage on the property and the Ho-Chunk Nation must be the first and only lien holder on the property until the terms of the Project Financing Agreement have been satisfied; and

WHEREAS, there is a potential program that Ho-Chunk Nation Tribal Members living in Minneapolis and potentially other areas may be eligible for that would benefit Tribal Members but not place the Nation’s assets at any additional risk; and

WHEREAS, the current language of Section 12, subparagraph a. (10) of the HOP provides:

(10) The Ho-Chunk Nation shall be the first and only lien holder on the property and if HOP verifies that a homeowner has a second mortgage on a subject property, the homeowner shall be subject to being sued by the Department of Justice and subject to the penalties outlined in Section 12, subparagraph e. (3). The only exception to the restriction contained in the previous sentence is that a homeowner will be allowed to utilize various homeownership grants to subsidize his or her mortgage, but the grant cannot jeopardize the Ho-Chunk Nation’s first lien on the property and the Homeowner must have prior authorization from the HBOD.

WHEREAS, the new language in bold of Section 12, subparagraph a. (10) would provide:

Except for the two exceptions contained in this paragraph, the Ho-Chunk Nation shall be the first and only lien holder on the property and if HOP verifies that a homeowner has a second mortgage on a subject property, the homeowner shall be subject to being sued by the Department of Justice and subject to the penalties outlined in Section 12, subparagraph e. (3). The only two exceptions to the restriction contained in the previous sentence are that:

(a) A homeowner will be allowed to utilize various homeownership grants to subsidize his or her mortgage, but the grant cannot jeopardize the Ho-Chunk Nation’s first lien on the property and the Homeowner must have prior authorization from the HBOD; and

(b) A homeowner may have a second mortgage on the subject property but only if all of the following conditions are true:

1 The second mortgage charges the Tribal Member zero percent (0%) interest and has no required payments of any form; and

2 The term of the second mortgage must be for thirty (30) years; and

3 If the Nation instigates foreclosure procedures against the homeowner for any reason, the terms of the second mortgage must provide that it will be forgiven and shall not be an encumbrance junior to the Nation’s encumbrance upon the property; and

4 The second mortgage must be subordinate to the Nation’s mortgage.

WHEREAS, the proposed amendments will enable Tribal Members living in metropolitan areas to obtain project financing that allows them to use the Nation’s housing program and have decent housing or any housing and not risk the Nation’s assets.

WHEREAS, it is critical that the Nation quickly amend its law to enable a Tribal Member to obtain a second mortgage under the above listed conditions in order that a Tribal Member may have access to the federal home buyer’s credit which expires at the end of April 2010.

NOW THEREFORE BE IT RESOLVED, that the Legislature, pursuant to its Constitutional Authority, uses the Quick Passage Procedures of the *Legislative Organization Act* (2 HCC § 11) to amend the *Home Ownership and Benefit Housing Program for the General Welfare of Non-Elders Act* (8 HCC § 5).

CERTIFICATION

I, the undersigned, as Tribal Secretary for the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of 13 members, of whom 8 constituting a quorum were present at a meeting duly called and convened and held on the 6th day of April, 2010, that the foregoing resolution was adopted at said meeting by an affirmative vote of **4 members, 4 opposed, and 0 abstaining**, pursuant to the authority of Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

*****Due to a three-fourths majority of aye votes needed to adopt this law and resolution, the resolution is Defeated.*****

Hope B. Smith, Tribal Secretary

Date