



**HO-CHUNK NATION CODE (HCC)  
TITLE 1 – ESTABLISHMENT ACTS  
SECTION 1 – HO-CHUNK NATION JUDICIARY  
ESTABLISHMENT AND ORGANIZATION ACT**

**ENACTED BY LEGISLATURE: APRIL 6, 2005**

**CITE AS: 1 HCC § 1**

*This Act supersedes the Ho-Chunk Nation Judiciary Establishment Act  
of 1995 (HCC 95-010).*

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**1. Authority.**

a. Article VII of the Constitution of the Ho-Chunk Nation (“Constitution”) establishes the Judiciary Branch of the Ho-Chunk Nation Government.

b. Article VII, Section 1 of the Constitution establishes a Supreme Court and a Trial Court of the Ho-Chunk Nation and grants the Legislature the power to establish lower courts of special jurisdiction as deemed necessary and other forums of special jurisdiction for traditional dispute resolution as deemed necessary.

c. Article VII, Section 3 of the Constitution grants the Legislature the power to appoint other Associate Judges as deemed necessary.

d. Article VII, Section 8 of the Constitution grants the Legislature the power to enact qualifications for Supreme Court Justices and Trial Court Judges.

e. Article VII, Section 11 of the Constitution grants the Legislature the power to appoint the Chief Judge and any Associate Judges of the Trial Court.

f. Article VII, Section 13 of the Constitution grants the Legislature the power to appoint a Justice or Judge pro tempore to fill any vacancy due to recusal by a Justice or Judge.

g. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

h. Article V, Section 13 of the Constitution grants the Legislature the power to enact an annual budget to include an appropriation of operating funds for each branch of the government.

**2. Purpose.** This Act enacts the Legislature's policy and procedures for its constitutionally mandated authority in the establishment and organization of the Judiciary Branch of the government.

**3. Organization.** The Ho-Chunk Nation Judiciary Branch is organized as follows:

a. A Supreme Court consisting of a Chief Justice and two (2) Associate Justices.

b. A Trial Court consisting of a Chief Trial Judge and other Associate Judges as deemed necessary by the Legislature.

c. A Traditional Court of Ho-Chunk elders for traditional dispute resolution.

**4. Jurisdiction.** The Ho-Chunk Judiciary shall exercise jurisdiction over all matters with the power and authority of the Ho-Chunk Nation including controversies arising out of the Constitution of the Ho-Chunk Nation; laws, statutes, ordinances, resolutions, and codes enacted by the Legislature; and such other matters arising under enactments of the Legislature or the customs and traditions of the Ho-Chunk Nation. The jurisdiction extends over the Nation and its territory, persons who enter its territory, its members, and persons who interact with the Nation or its members wherever found.

**5. Rules and Procedures.**

a. Proceedings of the Judiciary shall be conducted in a public place suitable for the purpose, but not necessarily in Ho-Chunk territory.

b. The Judiciary shall complete a permanent record of all proceedings and decisions. Decisions shall be in writing and shall be submitted to the parties. Absent protective orders granted for good cause or Legislative enactments to the contrary, these records shall be open to the public.

c. The Judiciary shall have exclusive authority and responsibility to employ personnel and to establish written rules and procedures governing the use and operation of the Courts.

d. All matters shall be tried in accordance with the Ho-Chunk Rules of Procedures And the Ho-Chunk Rules of Evidence which shall be written and published by the Supreme Court and made available to the public.

**6. Jury Trials.** In all matters other than criminal matters punishable by imprisonment, there shall be no right to trial by jury unless and until provided by Legislative enactment.

**7. Subpoenas.** Any Judge of the Trial Court, and if authority is delegated by the Chief Trial Judge to the Clerk of Court, shall have authority to issue subpoenas to compel attendance of witnesses or the production of documents or things. The failure to comply with a subpoena shall subject the person not complying to the contempt power of the Court. A person present in court may be required by the Court to testify in the same manner as if a subpoena was issued.

**8. Appointment and Recall of Judges.**

a. Appointment. The Chief Trial Judge and Associate Judges of the Trial Court shall be selected and confirmed by at least an absolute majority of the Legislature voting by secret ballot no less than fourteen (14) days and no more than thirty (30) days after the candidates are nominated. Nominations may be made and seconded in the normal course of business at any duly convened meeting of the Legislature. Except for the initial panel of judges, if any Legislator so requests, balloting shall be supervised by the Court. At any meeting held to confirm an appointment, absentee ballots shall be available to those members of the Legislature who request them. If an absolute majority of the Legislature does not disapprove a nominee within thirty (30) days after nomination, such nomination shall be deemed to be confirmed.

b. Removal or Recall. Once Judges are confirmed they shall be subject to removal or recall only in accordance with Sections 4 and 5 of Article IX of the Constitution of the Ho-Chunk Nation.

c. Extraordinary Appointment of Temporary Judges. If the Legislature fails to fill any vacancy on the Trial Court within ninety (90) days of its occurrence, the Chief Justice of the Supreme Court shall have the authority and the duty to appoint a qualified person to fill the vacancy. Such extraordinary appointments shall be effective upon delivery of written notice to the President of the Ho-Chunk Nation and such appointee shall serve until the Legislature appoints a judge for the vacancy.

**9. Qualifications of Justices and Judges.** All Justices of the Supreme Court and Judges of the Trial Court shall meet at least the minimum qualifications as specified in Article VII, Section 8 of the Constitution.

**10. Funding.**

a. The Judiciary shall be funded by general appropriations from the Legislature; from filing fees, penalties, and assessment for costs to persons before the Judiciary; from federal appropriations or grants; and from such other sources of revenue as the Judiciary and the Legislature deem appropriate.

b. In order to ensure the continued existence and independence of the Judiciary and the reasonable compensation of Justices and Judges provided for in Section 12 of Article VII of the Constitution, the following extraordinary funding is authorized. If, in the discretion of the Chief Trial Judge, the Legislature, or any agent or employee of the Nation fails to authorize, appropriate, or disburse sufficient funds for the normal and efficient operation of the Judiciary, the Chief Trial Judge shall have complete authority to file and execute liens and judgments upon the funds or other assets of the Ho-Chunk Nation, its businesses and subsidiary corporations on or off its lands. This authority shall be limited to a maximum of \$300,000 (three hundred thousand dollars) annually, exclusive of costs and attorney fees, which shall also be recoverable. The maximum authorized amounts shall be adjusted for inflation annually, with the 1994 year being the base year.

c. The Chief Trial Judge shall publish a budget for the operation of the Judiciary within forty-five (45) days of approval by the Legislature. If additional appropriations are deemed necessary by the Chief Trial Judge, the request shall be made to Legislature as provided for in the Nation's *Appropriations and Budget Process Act* (2 HCC § 4).

**11. Appeals.** Appeals shall be heard according to written rules established by the Judiciary under Section 5 of this Act.

**12. Traditional Dispute Resolution.** The Judiciary shall provide for the establishment, operation, and funding of the Nation's Traditional Court to assist the Judiciary whenever possible with the resolution of cases or controversies involving Tribal members.

**13. Amendment and Repeal.** This Act shall remain in full force and effect and no amendment or resolution of repeal shall be effective unless such amendment or resolution of repeal is approved by an absolute majority of the Legislature.

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Legislative History:

3/22/95	Legislature adopts the Ho-Chunk Nation Judiciary Establishment Act of 1995 as HCC 95-010.
11/24/04	Ho-Chunk Nation Judiciary Establishment Act reformatted IAW Legislative Resolution 11/16/04A as a Proposed Bill (1HCC § 1) and submitted to the Judicial Branch and Office of the President for Executive Review and Coordination.
2/15/05	Judicial Branch responds with no comments nor suggested revisions.
3/10/05	Submitted to the Administration Committee.
3/22/05	Reviewed by full Legislature.
4/6/05	Enacted as the Ho-Chunk Nation Judiciary Establishment and Organization Act by Legislative Resolution 4/6/05D.