

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Cherokee Agency  
Cherokee, North Carolina 28719

IN REPLY REFER TO,

Michell Hicks, Principal Chief  
Eastern Band of Cherokee Indians  
P.O. Box 455  
88 Council House Loop Cherokee, NC 28719

Dear Chief Hicks:

Attached is a signed Tribal Council Resolution/Ordinance No. 778 introduced on July 14, 2011 and **Passed** on July 14, 2011. Should you have any questions regarding this matter please contact me at (828) 497-9131 extension 227.

Sincerely,

Superintendent



PASSED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

JUL 14 2011

DATE

SUBSTITUTE RESOLUTION NO. 778 (2011)

WHEREAS, Resolution No. 308 (2010) was passed on May 4, 2010 and authorized the purchase of Cherokee County Tract #35, containing 205 acres, more or less; and

WHEREAS, the possessory holder of Cherokee County Tract #35, Gladys A. Wright, died on September 12, 2009 and has no enrolled member children; and

WHEREAS, Ms. Wright left a Last Will and Testament dated March 21, 2003, which did not address her possessory holding, Cherokee County Tract #35; and

WHEREAS, the Executor of Ms. Wright's estate, Ms. Kathryn Susan Jasper, produced a second document entitled Last Will and Testament of Gladys A. Wright, dated September 27, 2007; and

WHEREAS, the second document bears only the seal and signature of a Notary Public, but no witness signatures; and

WHEREAS, Cherokee Code Section 28-2(b) requires that a First Generation Descendant may only be granted a life estate in a possessory holding validly assigned to his enrolled member parent through a valid written will; and

WHEREAS, Cherokee Code Section 28-1 adopts the North Carolina statutes regarding inheritance and such statutes require a Last Will and Testament to be witnessed by 2 individuals; and

WHEREAS, the signature of the Notary Public may qualify as 1 witness signature but the document still does not meet the legal requirements to qualify as a valid Will as it is missing 1 witness signature; and

WHEREAS, the children of Gladys A, Wright, as First Generation Descendants, were not properly given a life estate in Cherokee County Tract #35.

NOW, THEREFORE BE IT RESOLVED by the Tribal Council of the Eastern Band of Cherokee Indians, in Council assembled, at which a quorum is present, that the authorization granted by Resolution No. 308 (2010) to purchase Cherokee County Tract #35 be rescinded and that said Tract #35, containing 205 acres, more or less, revert back to the Tribe.

BE IT FINALLY RESOLVED that this resolution shall become effective upon ratification of the Principal Chief.

Submitted by: Office of the Attorney General

LAST WILL AND TESTAMENT OF  
GLADYS A. WRIGHT

2010 JUL 26 AM 10:11

FILED

I, Gladys A. Wright, a member of the Eastern Cherokee Tribe of Indians in the State of North Carolina, being of sound and disposing mind, and realizing the uncertainty of human life, do make this my Last Will and Testament, in regard to my possessor interest in the lands under the direction of the Eastern Band of Cherokee Indians:

I give, devise and bequeath to my children; Henry Larkin Wright, JR., Kathryn Susan Jasper, William Edward Wright, and Elizabeth Jo Wright Poscich, first generation rights for their life time my possessor holding in Cherokee County, a part of the Cherokee Reservation and accurately described as follows:

DESCRIPTION: BEGINNING at the Black Oak, NW Corner of No. 34, original Corner on the line of No.32 – 17 poles south of the NE corner of No. 32, from which a Spanish Oak 8” diameter bears N 40 E 25poles dist., a chestnut 36” diameter bears S 13 W32 lks dist., a Hickory 12” diameter bears S 85 W, 40 lks, dist., thence north passing NE Corner of No. 32 at 17 poles, crossing said creek at 19 lks (Colvards Cr.), same course whole distance 189 poles to a Black Oak, fallen, corner on a Poplar; thence East crossing said creek at 12 poles, whole distance 174 poles to a Poplar stump in S.W. Davidson field, no witness trees available, thence South 188 poles to a Black Jack, formerly corner on a small Black Oak. NE corner of No. 34; thence West with the line of said No. 174 poles to the BEGINNING. Containing 205 acres more or less.

Surveyed February 20<sup>th</sup>, 1901.

In witness whereof, I, Gladys A. Wright, have hereunto set my hand, sealed published and declared this to be my Last Will and Testament, this 27 day of Spt, in the year of our Lord, 2007

Gladys A Wright  
Gladys A. Wright

Subscribed and sworn before me this 27 day of September, 2007  
Beth R Vaughn

Notary Public

My Commission expires 5-18-2011

# Registrar of Vital Statistics

## Certified Copy



THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND - NOT A WHITE BACKGROUND

2580657

COMMONWEALTH OF KENTUCKY  
CABINET FOR HEALTH & FAMILY SERVICES  
REGISTRAR OF VITAL STATISTICS  
CERTIFICATE OF DEATH

FILED 2009 OCT 05

FORM VS NO. 1-A (REV. 7/08) amended 10/15/09 akc		1. DECEDENT'S NAME (First, Middle, Last)		2. SEX		3. DATE OF DEATH (Month, Day, Year)	
Gladys Adeline Wright		Female		September 12, 2009			
4. SOCIAL SECURITY NUMBER		5a. AGE Last Birthday (Years)		5b. UNDER 1 YEAR (Months) (Days)		5c. UNDER 1 DAY (Hours) (Minutes)	
415-32-2421		89					
8. WAS DECEDENT EVER IN U.S. ARMED FORCES?		9a. PLACE OF DEATH (Check only one)		6. DATE OF BIRTH (Month, Day, Year)		7. BIRTHPLACE (City/State or Foreign Country)	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DOA <input checked="" type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)		September 4, 1920		Murphy, NC.	
10a. FACILITY NAME (if not institution, give street and number)		10b. CITY, TOWN, OR LOCATION OF DEATH		10c. COUNTY OF DEATH			
Corbin Nursing Home 90		Corbin		Whitley		118	
10. MARITAL STATUS		11. SURVIVING SPOUSE (if wife, give maiden name)		12a. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.)		12b. KIND OF BUSINESS/INDUSTRY	
Widowed		None		Nurse		Healthcare	
13a. RESIDENCE - State		13b. COUNTY		13c. CITY, TOWN, OR LOCATION		13d. STREET AND NUMBER	
Kentucky		Pulaski 100		Somerset		11 Friendship Way	
13a. INSIDE CITY LIMITS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		13b. ZIP CODE		14. WAS DECEDENT OF HISPANIC ORIGIN? (Specify Yes or No - if yes, specify Cuban, Mexican, Puerto Rican, etc.)		15. RACE - American Indian, Black, White, etc. (Specify)	
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		42503		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		White	
17. FATHER'S NAME (First, Middle, Last)		18. MOTHER'S NAME (First, Middle, Maiden Surname)		15. DECEDENT'S EDUCATION (Specify only highest grade completed)			
George W. Crag		Georgia Yontz GEORGIA YOUNCE		Elem/Secondary (9-12)		College (1-4 or 5+)	
19a. INFORMANT'S NAME		19b. MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)		16. DECEDENT'S EDUCATION (Specify only highest grade completed)			
Susan Jasper		92 Linwood Drive, Somerset, Kentucky 42501		Elem/Secondary (9-12)		College (1-4 or 5+)	
20a. METHOD OF DISPOSITION <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation		20b. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)		20c. LOCATION (City, Town, or State)			
<input type="checkbox"/> Removal from State <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify)		Mill Springs National Cemetery		Nancy, Kentucky			
21. SIGNATURE OF FUNERAL SERVICE LICENSEE (Or person acting as such)		DATE SIGNED (Month, Day, Year)		22. NAME AND ADDRESS OF FACILITY			
<i>John R. ...</i>		9-30-09		Somerset Undertaking Company 113 N. Main Street Somerset, KY 42501			
23a. To the best of my knowledge, death occurred at the time, date, place and due to the causes stated		Signature and Title <i>Bobby Turner</i>		23b. DATE SIGNED (Month, Day, Year)			
				9/28/09			
24. NAME AND ADDRESS OF PERSON WHO COMPLETED CAUSE OF DEATH (ITEM 23)		25. TIME OF DEATH		26. DATE PRONOUNCED DEAD (Month, Day, Year)		27. WAS CASE REFERRED TO MEDICAL EXAMINER/CORONER?	
Dr. Bobby Turner, 1419 Cumberland Falls Hwy, Corbin, KY 40701		9:30 PM		September 12, 2009		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
28. PART I. Enter the diseases, injuries, or complications that caused death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock or heart failure. List only one cause on each line. NOTE: Kentucky data indicate that diabetes is likely underreported on death certificates. If known, document diabetes as a "cause of" or "contributing cause of" death as appropriate in Parts I and II.		IMMEDIATE CAUSE (Final disease or condition resulting in death)		Approximate interval between onset and death			
		Dementia					
		Arteriosclerosis					
PART II. Other significant conditions contributed to death but not resulting in the underlying cause given in Part I.		28a. If female, was there a pregnancy in the past 12 months? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		28b. Was an autopsy performed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		28c. Were autopsy findings available prior to completion of cause of death? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Hypertension; Anemia							
29. MANNER OF DEATH		30a. DATE OF INJURY (Month, Day, Year)		30b. TIME OF INJURY		30c. INJURY AT WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO	
<input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide							
<input type="checkbox"/> Accident <input type="checkbox"/> Pending Investigation							
<input type="checkbox"/> Suicide <input type="checkbox"/> Could not be Determined							
31. REGISTRAR'S SIGNATURE		30d. PLACE OF INJURY - At home, farm, street, factory, office building, etc. (Specify)		30e. LOCATION (Street and Number or Rural Route Number, City or Town)		32. DATE FILED (Month, Day, Year)	
Paul F. Royce						OCT 01 2009	



THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

I, Paul F. Royce, Registrar of Vital Statistics, hereby certify this to be a true and correct copy of the certificate of birth, death, marriage or divorce of the person therein named, and that the original certificate is registered under the file number shown. In testimony thereof I have hereunto subscribed my name and caused the official seal of the Office of Vital Statistics to be affixed at Frankfort, Kentucky this 12th day of October, 2009

Paul F. Royce  
State Registrar

Eastern Band Of Cherokee Indians

B00542 - Georgia M. Craig

Friday, November 13, 2009 9:58am

Records: 2



Ent. No.	Full Name	Full Address-M	DOB	Death Date	Maternal	Paternal
B00543	Wright, Gladys	92 N Linwood Drive, Somersel, KY 42501-1101	9/4/1920	9/12/2009	B00542	
B00544	Craig, Gamel Lee	PO Box 516, Cherokee, NC 28719	2/9/1923	N/A	B00542	

Cherokee Indian Agency  
Cherokee, North Carolina  
December 2, 2009

**TITLE STATUS REPORT  
GLADYS CRAIG WRIGHT  
CHEROKEE COUNTY TRACT NO. 35**

I hereby certify that I have made a careful search of the records of the Cherokee Indian Agency, and the sequence of ownership as described below is correct and true to the best of my knowledge and belief.

The Eastern Band of Cherokee Indians, having acquired record title to its land in North Carolina by several Deeds executed between the period October 9, 1876, and March 26, 1902, conveyed good legal title to its properties unto the United States of America to hold in trust for the Band by Deed dated July 21, 1925, executed pursuant to Act of Congress of June 4, 1924, (43 Stat. 376), which Deed is recorded in the Office of the Register of Deeds of Swain County, North Carolina, in Deed Book 52, at Page 353. This Deed is also recorded in the Office of the Register of Deeds of Jackson County, North Carolina in Deed Book 95, at Page 182.

Tract No. 35, Cherokee County, North Carolina is a tract of land in western North Carolina, which is owned by the Eastern Band of Cherokee Indians and was surveyed in 1878, by M.S. Temple, U.S. Deputy surveyor. The official Temple Survey is shown on a plat dated October 19, 1878, which with the field notes of the survey, is filed in the General Land Office. This tract of land is described in the "Sibbald Deed" in accordance with the Temple Survey, in paragraphs 8 & 9 respectively. The "Sibbald Deed" was executed August 14, 1880, and ratified and confirmed by the General Assembly of North Carolina, March 8, 1897. (Chapter 207, Sec. 25, Private Laws, 1897) by Quitclaim Deed from W.A. Jones, Commissioner of Indian Affairs of the United States to the Eastern Band of Cherokee Indians, as a corporation on March 25, 1902, this deed was recorded in Cherokee County, North Carolina on April 4, 1902, in Book 34 of Deeds on Page 519.

The right to the use and possession, which right is known as Possessory Holding, as to particular tracts of land on the Reservation, is allocated by the Tribal Council among the individual members of the Band.

According to information received and the records at the Cherokee Indian Agency, Cherokee County Tract No. 35 was the original holding of Georgia C. Trull. There are no documents on file at the Cherokee Agency Realty Office to substantiate this information; however, the sequence of possession of this land has never been questioned.

Tribal Council Resolution No. 320 (1984) enacted by Tribal Council on February 5, 1986 recognized Gladys Craig Wright as the owner of Georgia C. Trull's possessory holding, known as Cherokee County Tract No. 35.

**TITLE STATUS REPORT  
GLADYS CRAIG WRIGHT  
PAGE TWO**

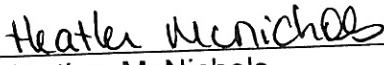
On September 10, 1986, the Tribal Business Committee approved a Transfer of Possessory Interest from Eastern Band of Cherokee Indians to Gladys Craig Wright for Cherokee County Tract No. 35, containing 205 acres, in accord with Tribal Council Resolution No. 320 (1984), enacted by Tribal Council on February 5, 1986.

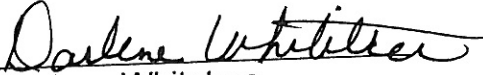
CHEROKEE COUNTY TRACT NO. 35 – BEGINNING on a Black Oak, NW Cor. Or No. 34, original Cor. on the line of No. 32 – 17 poles South of the NE Cor. of No. 32, from which a Spanish Oak 8" diameter bears N 40 E 25 (Poles) dist., a Chestnut 36" diameter bears S 13 W 32 lks dist., a Hickory 12" diameter bears S 85 W 40 lks. Dist., thence passing NE Cor. of No. 32 at 17 poles, crossing said creek at 19 lks (Colvards Cr.), same course, whole distance 189 poles to a Black Oak, fallen, corner on a Poplar; thence East crossing said creek at 12 poles, whole distance 174 poles to a Poplar stump in SW Davidson field, no witness trees available; thence South 188 poles to a Black Jack, formerly corner on a small Black Oak. NE corner of No. 34; thence West with the line of said No. 174 Poles to The BEGINNING, containing 205 acres.

There are no right-of-ways on file for this property at the Cherokee Agency Division of Real Estate Services.

There are no liens against Cherokee County Tract No. 35 on file with the Bureau of Indian Affairs, Cherokee Indian Agency Division of Real Estate Services, Cherokee, North Carolina as of this date.

The foregoing instrument was hereby prepared by Heather McNichols, Realty Specialist, and certified to be a search from the records of the Cherokee Indian Agency. Reviewed and certified to be a true and accurate search of the records by Darlene Whitetree, Deputy Superintendent.

  
Heather McNichols  
Realty Specialist

  
Darlene Whitetree  
Deputy Superintendent

# Last Will and Testament

OF

GLADYS A. WRIGHT

\* \* \* \* \*

I, Gladys A. Wright, domiciled in Somerset, Pulaski County, Kentucky, do make, publish and declare this to be my Last Will and Testament, hereby revoking any and all Wills and Codicils heretofore made by me.

ITEM I: I direct that my just debts and funeral expenses and all costs of administration and inheritance and estate taxes, if any, be paid out of my estate as soon as practicable after the time of my decease.

ITEM II: All property which I own, or of which I may have the right to dispose of at the time of my death, both real and personal, I give, devise and bequeath to my children, Henry L. Wright, Jr., K. Susan Jasper, William Edward Wright and Elizabeth Jo Poscich, equally and in fee simple.

ITEM III: I nominate and appoint my daughter, K. Susan Jasper, to serve as Executrix of this, my Last Will and Testament, and direct that no inventory nor appraisal be made of my estate insofar as the same may be lawfully omitted.

Except as otherwise required by law, I direct that no bond be required of any Fiduciary named in this Will.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name to this my Last Will and Testament consisting of this and no preceding typewritten pages and being first duly sworn do hereby declare to the undersigned authority that I sign and execute the instrument as my Last Will and Testament and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed and that I am eighteen (18) years of age



or older of sound mind and under no constraint or undue influence, all on this the 21<sup>st</sup> day of March, 2003, at Somerset, Kentucky.

Gladys A Wright  
GLADYS A. WRIGHT

We, the witnesses, sign our names to the foregoing instrument consisting of this and one (1) preceding typewritten page and being first duly sworn do hereby declare to the undersigned authority that the testator signs and executes this instrument to be her Last Will and Testament, that she signs it willingly and that each of us in the presence and hearing of the testator and in the presence and hearing of each other hereby signs this Will as witness to the testator's signing and that to the best of our knowledge the testator is eighteen (18) years of age or older, of sound mind and under no constraint or undue influence all on this the 21<sup>st</sup> day of March, 2003, at Somerset, Kentucky.

Jay Lynn Mervick residing at Somerset, Kentucky  
Rhonda Hatfield-John residing at Morehead, Kentucky

STATE OF KENTUCKY  
COUNTY OF PULASKI...SCT:

Subscribed and sworn to before me by Gladys A. Wright, the Testator, and by Jay Lynn Mervick and Rhonda Hatfield-John witnesses, this 21<sup>st</sup> day of March, 2003.

My Commission Expires:  
1-26-04

John T. Mandt  
NOTARY PUBLIC

PREPARED IN THE LAW OFFICE OF:

John T. Mandt  
JOHN T. MANDT  
Attorney at Law  
P. O. Box 25  
Somerset, Kentucky 42502  
(606) 679-3504

STATE OF KENTUCKY, COUNTY OF PULASKI, SCT 1  
RALPH TROXTELL, CLERK OF PULASKI COUNTY, DO  
CERTIFY THAT THE FOREGOING INSTRUMENT WAS ON  
THE 12 DAY OF October AT 5:00 M. LODGED FOR  
RECORD AND THAT IT HAS BEEN DULY RECORDED IN MY SAID  
OFFICE TOGETHER WITH THIS AND THE CERTIFICATE THEREON  
ENDORSED, GIVEN UNDER MY HAND THIS 12 DAY  
OF Oct 09 2009 BOOK 58 PAGE 680  
ATTEST RALPH TROXTELL, CLERK  
BY Boal & Hill DC

LAST WILL AND TESTAMENT OF

GLADYS A. WRIGHT

I, Gladys A. Wright, a member of the Eastern Cherokee Tribe of Indians in the State of North Carolina, being of sound and disposing mind, and realizing the uncertainty of human life, do make this my Last Will and Testament, in regard to my possessory interest in the lands under the direction of the Eastern Band of Cherokee Indians:

I give, devise and bequeath to my daughters, Kathryn Susan Wright Jasper and Elizabeth Jo Wright Poscich, first generation rights for their life time my possessory holding in Cherokee County a part of the Cherokee Reservation and accurately described as follows:

**DESCRIPTION:** BEGINNING at a Black Oak, NW Corner of No. 34, original Corner on the line of No. 32 - 17 poles south of the NE corner of No. 32, from which a Spanish Oak 8" diameter bears N 40 E 25 (poles) dist., a chestnut 36" diameter bears S 13 W 32 lks dist., a Hickory 12" diameter bears S 85 W, 40 lks, dist., thence north passing NE Cor. of No. 32 at 17 poles, crossing said creek at 19 lks (Colvards Cr.), same course whole distance 189 poles to a Black Oak, fallen, corner on a Poplar; thence East crossing said creek at 12 poles, whole distance 174 poles to a Poplar stump in S. W. Davidson field, no witness trees available, thence South 188 poles to a Black Jack, formerly corner on a small Black Oak. NE corner of No. 34; thence West with the line of said No. 174 poles to the BEGINNING. Containing 205 acres more or less.

Surveyed February 20th, 1901.

In witness whereof, I, Gladys A. Wright, have hereunto set my hand, sealed published and declared this to be my Last Will And Testament, this 6th day of October, in the year of our Lord 1998.

Gladys A. Wright  
Gladys A. Wright

Subscribed and sworn before me this 6th day of October, 1998.

My Commission expires 2-27-02

Alicia Shores  
Notary Public

Mrs. Gladys Wright  
7601 Pedigo Road  
Knoxville, TN. 37938  
September 7th, 1998

US Department of Interior  
Bureau of Indian Affairs  
Cherokee Indian Agency  
Cherokee, N.C. 28719

Dear Mrs. Blankenship:

Attached is a revision of my last will and testament as it applies to my possessory interest in the lands under the direction of the Eastern Band of Cherokee Indians (tract number 35, described therein) changing first generation rights from all my children to my two daughters for their lifetimes.

Please let me know if I need to file a Transfer of Possessory Interest and/or Use Rights to Cherokee Tribal Lands, and if so, please send me a copy of the form I need to complete.

Thank you for your help with this matter.

Sincerely,

*Gladys<sup>a.</sup> Wright*  
Gladys A. Wright

LAST WILL AND TESTAMENT OF  
GLADYS A. WRIGHT

I, Gladys A. Wright, a member of the Eastern Cherokee Tribe of Indians in the State of North Carolina, being of sound and disposing mind, and realizing the uncertainty of human life, do make this my Last Will and Testament, in regard to my possessory interest in the lands under the direction of the Eastern Band of Cherokee Indians:

I give, devise and bequeath to my children; Henry Larkin Wright, Jr., Kathryn Susan Jasper, William Edward Wright, and Elizabeth Jo Wright Miller, first generation rights for their life time my possessory holding in Cherokee, County, a part of the Cherokee Reservation and accurately described as follows:

DESCRIPTION: BEGINNING at a Black Oak, NW Corner of No. 34, original Corner on the line of No. 32 - 17 poles south of the NE corner of No. 32, from which a Spanish Oak 8" diameter bears N 40 E 25 (poles) dist., a chestnut 36" diameter bears S 13 W 32 lks dist., a Hickory 12" diameter bears S 85 W, 40 lks, dist., thence north passing NE Cor. of No. 32 at 17 poles, crossing said creek at 19 lks (Colvards Cr.), same course whole distance 189 poles to a Black Oak, fallen, corner on a Poplar; thence East crossing said creek at 12 poles, whole distance 174 poles to a Poplar stump in S. W. Davidson field, no witness trees available, thence South 188 poles to a Black Jack, formerly corner on a small Black Oak. NE corner of No. 34; thence West with the line of said No. 174 poles to the BEGINNING. Containing 205 acres more or less.

Surveyed February 20th, 1901.

In witness whereof, I, Gladys A. Wright, have hereunto set my hand, sealed published and declared this to be my Last Will And Testament, this 5 day of DECEMBER, in the year of our Lord 1996.

Gladys A. Wright  
Gladys A. Wright

Subscribed and sworn before me this 5 day of DECEMBER, 1996.

Anne M. Hill  
Notary Public  
My commission expires 10-30-99

**Sec. 28-1. Inheritance laws of North Carolina adopted.**

(a) For purposes of determining the identity of the lawful heirs of Tribal members for the inheritance of both personal and real property, the Tribal Council does hereby adopt the laws of intestate succession and other inheritance laws of the State of North Carolina. Exception to North Carolina inheritance law: The Tribe follows "per stirpes" distribution rather than the North Carolina rule of per capita distribution.

(b) Upon written request from the Cherokee Court or the BIA Realty Program, the Tribal Enrollment Office shall provide a list of the descendants of a deceased enrolled member. Such list shall be based on documentation on file with the Enrollment Office and shall not include descendants who are not recognized as heirs under North Carolina law, including the following:

- (1) Children who have been formally adopted are not the heirs of their birth parents, but are the heirs of their adoptive parents.
- (2) Children born out of wedlock are not the heirs of a putative father, unless they have been recognized as his children by a court order or by a formal acknowledgment duly executed by the putative father.

The Enrollment Office shall consult with the Office of the Attorney General when in doubt about whether the documentation on file establishes that a descendant is an heir.

(c) The Cherokee Court and BIA Realty shall establish such procedures as are necessary to ensure that:

- (1) A surviving spouse married to the decedent at the time of his or her death is included as an heir, and
- (2) Notice of the descendant list is posted or published for at least 10 days to allow any potential heir who is not listed the opportunity to present documentation proving that s/he is an heir.

The final determination regarding the heirs of a deceased enrolled member shall be made by the

Cherokee Court for personal property and by the Tribal Council for real property. Decisions of the Cherokee Court may be appealed to the Cherokee Supreme Court; decisions of the Tribal Council are not subject to appeal to the Cherokee Supreme Court.

(Res. No. 10, 10-11-1935; Res. No. 57, 11-2-1937; Ord. No. 113, 2-28-2000; Ord. No. 109, 8-14-2004)

**Sec. 28-2. First Generation heirs.**

(a) *Definition.* The Charter and Governing Document of the Eastern Band of Cherokee Indians, as enacted and adopted May 8, 1986, and amended by Tribal referendum on October 8, 1987, provides in section 16 for the First Generation of an enrolled member to enjoy all property, both real and personal, that is held in an enrolled member's possession at their death. By definition in the Charter, a First Generation Descendent shall include all children born to or adopted by an enrolled member.

(b) *Use.* A First Generation Descendent of an enrolled member of the Eastern Band of Cherokee Indians shall be allowed to use or occupy Cherokee trust lands that were validly assigned to their enrolled parent on the date of their death. Such use shall be permitted only if the enrolled parent assigns such right to a non-enrolled child by a valid written will. Use or occupancy shall include, but not be limited to: the right to occupy a house or dwelling, to operate a business owned or operated by an enrolled parent and located on lands assigned to them by the Tribe, to make agricultural use of lands assigned to such enrolled parent.

(c) *Prohibited use.* A First Generation Descendant shall not be authorized to decrease the value of their parents holding by either altering or removing permanent improvements, by selling or depleting any minerals, or by selling or cutting timber. First Generation Descendants shall have the right to cut wood for their personal non-business use.

(d) *Transfer valuation.*

- (1) A First Generation Descendant shall have the right to rent, lease, or transfer a possessory holding to an enrolled member.

**§ 31-3.1. Will invalid unless statutory requirements complied with.**

No will is valid unless it complies with the requirements prescribed therefor by this Article. (1953, c. 1098, s. 2.)

**§ 31-3.3. Attested written will.**

(a) An attested written will is a written will signed by the testator and attested by at least two competent witnesses as provided by this section.

(b) The testator must, with intent to sign the will, do so by signing the will himself or by having someone else in the testator's presence and at his direction sign the testator's name thereon.

(c) The testator must signify to the attesting witnesses that the instrument is his instrument by signing it in their presence or by acknowledging to them his signature previously affixed thereto, either of which may be done before the attesting witnesses separately.

(d) The attesting witnesses must sign the will in the presence of the testator but need not sign in the presence of each other. (1953, c. 1098, s. 2.)

**§ 31-46. Validity of will; which laws govern.**

A will is valid if it meets the requirements of the applicable provisions of law in effect in this State either at the time of its execution or at the time of the death of the testator. (1953, c. 1098, s. 14.)



The attached Resolution/Ordinance No. 778 dated July 14, 2011 was:

**PASSED ( X )**

**KILLED ( )**

and ratified in open Council on July 14, 2011 by 87 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT	TABLE
Teresa McCoy					X
Perry Shell	X				
Gene Crowe	X				
Mike Parker	X				
David Wolfe	X				
Alan Ensley	X				
Jim Owle	X				
Diamond Brown	X				
Adam Wachacha	X				
Bill Taylor	X				
Terri Henry					X
Tommye Saunooke	X				
<b>Total:</b>	87	0	0	0	13

  
\_\_\_\_\_

TRIBAL COUNCIL CHAIRMAN

  
\_\_\_\_\_

PRINCIPAL CHIEF

\_\_\_\_\_ CLERK

APPROVED (  )

VETOED (  )

VETO UPHELD (  ) VETO DENIED (  )

DATE: 7-22-11

I hereby certify that the foregoing act of the Council was duly:

**PASSED ( )**

**KILLED ( )**

and ratified by Council Chairperson, Clerk, and Principal Chief of the Eastern Band of Cherokee Indians.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

\_\_\_\_\_  
INTERPRETED ( )

\_\_\_\_\_  
OMITTED ( )