

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

AUG 06 2020

Date: _____

ORDINANCE NO. 235 (2020)

Short Title: an ordinance amending C.C. § 28-7 to state that an heir of a deceased enrolled member does not have to sign a transfer document indicating receipt of a possessory holding from the estate of the deceased.

WHEREAS, the Eastern Band of Cherokee Indians established the Tribal Realty Office in 2016 to take over and perform certain realty services for Tribal members from the Bureau of Indian Affairs (BIA); and

WHEREAS, as the Tribal Realty Office has grown and expanded, it has continually looked to improve the efficiency of administrative services it carries out on behalf of Tribal members; and

WHEREAS, the current practice for the administration of possessory holdings held by estates of deceased enrolled members requires that the heirs sign the possessory holding transfer document once Tribal Council has passed a resolution identifying and recognizing the heirs; and

WHEREAS, nothing in the Cherokee Code requires heirs to execute a possessory holding transfer document to receive possessory holdings that they inherit; and

WHEREAS, requiring enrolled member heirs to sign a transfer document to allow them to inherit possessory holdings has, in many cases, led to the transfers and inheritance to be delay for months or years when the heirs fail or refuse to come to the Tribal Realty Office to execute the transfer and indicate receipt; and

WHEREAS, to make the process clearer and more efficient, C.C. § 28-7 should be amended to expressly state that persons inheriting possessory holdings pursuant to a resolution of Tribal Council recognizing them as heirs of a deceased enrolled member do not have to execute a transfer document to receive the inheritance.

NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that Cherokee Code Chapter 28 is hereby amended as follows:

Sec. 28-7. – Administration of possessory holdings held in estates.

- (a) Once the proper assignment and distribution of a possessory holding of a deceased enrolled member has been determined by the appropriate Tribal personnel, the Tribal Realty Office

1 shall draft the possessory holding transfer document memorializing the transfer of the
2 possessory holding from the estate of the deceased enrolled member to the heir.

3
4 (b) An heir of the deceased enrolled member shall not be required to sign the possessory
5 holding transfer document to receive the possessory holding and be recognized as the
6 holder of the legal interest thereof.

7
8 (c) Once the Tribal Realty Office has drafted the possessory holding transfer document, the
9 Realty Office shall submit the transfer document to the Tribal Business Committee for
10 approval pursuant to Cherokee Code Sec. 117-33.

11
12 (d) Upon approval of the transfer document by the Tribal Business Committee, the Tribal
13 Realty Office shall cause the document to be recorded in the Tribal record, and thereafter
14 the Tribal Realty Office shall notify the heir that the document has been approved and
15 recorded and that the heir may obtain a copy of the transfer document from the Tribal
16 Realty Office.

17
18 **BE IT FINALLY ORDAINED** that all ordinances that are inconsistent with this ordinance are
19 rescinded, and that this ordinance shall become effective when ratified by the Principal
20 Chief.

21
22 *Submitted by Tribal Realty Services and the Office of the Attorney General*