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CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: JUL 08 2021

ORDINANCE NO. 542 (2021)

An ordinance to repeal subsection (b) of C.C. § 105-35 regarding tax certifications.

WHEREAS, Subsection (b) of C.C. § 105-35 precludes the BIA Realty Office from accepting for recording possessory holding transfer documents unless the Tribal Budget and Finance Office has certified on certain forms that no delinquent tribal taxes, or other taxes are a lien on the property being transferred; and

WHEREAS, although subsection (b) addresses recording of documents, it could have the effect of prohibiting approvals of transfers until the required Tribal tax information is obtained on the prescribed forms; and

WHEREAS, the Tribal tax certification described in subsection (b) has not been requested or provided in some years and the need to obtain the certification is low; and

WHEREAS, this issue was discussed by the Tribal Business Committee at its meeting on June 22, 2021, and the Committee concluded that the tax information described in subsection (b) is readily obtained by the necessary Tribal entities by other means and that subsection (b) is unnecessary; and

WHEREAS, C.C. § 105-35(b) should be repealed.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that C.C. § 105-35 shall be amended by repealing subsection (b), as follows:

Sec. 105-35. - Taxes are debt to tribe; constitute lien on real property.

(a) All taxes, fees, privileges, penalties and interest assessed by this chapter, are a debt owed by the person or entity against whom they are assessed, to the Eastern Band of Cherokee Indians. They constitute a lien on all interests in real property owned by the person or entity against which they have been assessed, effective upon the date on which all periods for payments and all appeal periods have run without those sums, adjusted by any waivers, reductions, or compromises of liability, having been paid. The Budget and Finance Division is authorized and required to take all necessary actions to perfect and enforce these debts and liens.

1 ~~(b) Tax certification. The Eastern Band of Cherokee Indians requires the BIA Realty Office~~
2 ~~not to accept any document transferring any interest in real property for recordation in~~
3 ~~possessory holding files, the Miscellaneous Record Book, or any other official land~~
4 ~~records maintained by BIA unless the Budget and Finance Office has certified, on forms~~
5 ~~maintained by the Budget and Finance Office and approved by Council, that no~~
6 ~~delinquent tribal taxes, or other taxes are a lien on the property described in the deed or~~
7 ~~other document granting an interest in land.~~

8
9 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
10 rescinded, and that this ordinance shall become effective when ratified by the
11 Principal Chief.

12
13 *Submitted by Michael W. McConnell, Attorney General*