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AMENDED  
PASSED

DEC 05 2024

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA

NOV 07 2024

Date: \_\_\_\_\_

ORDINANCE NO.: 334 (2024)

*An ordinance amending C.C. Chapter 16C-6 to modify the distribution schedule of the Minors Trust Fund.*

WHEREAS, Cherokee Code (C.C.) Sec. 16C-6, entitled "Minors and other legal incompetent", governs distributions from the Minors Trust Fund to eligible Minors Fund participants when they become adults; and

WHEREAS, generally speaking, Sec. 16C-6 requires distributions to be made on a staggered schedule of three distributions, the first being made when the eligible participant reaches 18 years of age, the second at 21 years of age, and the third at 25 years of age; and

WHEREAS, the EBCI Investment Committee and the EBCI Office of Budget and Finance have determined that a new schedule of five staggered distributions, at ages 18, 20, 22, 24 and 25, will better meet the needs of Minors Fund participants and will decrease the tax burden participants experience with the current the distribution schedule.

NOW, THEREFORE, BE IT ORDAINED the Eastern Band of Cherokee Indians Tribal Council, in Council assembled, at which a quorum is present, that C.C. Chapter 16C-6 shall be amended to read as follows:

**Sec. 16C-6 – Minors and other legal incompetents.**

The interests of minor and legally incompetent members otherwise entitled to receive per capita payments shall be protected as follows:

(a) *Trust Fund for enrolled minor and incompetent members.*

(1) Within 60 days after approval of this section by the Secretary of Interior, the Tribe shall establish a legal trust (hereinafter "the Minors Trust Fund") for the benefit of all minor members and legally incompetent members who shall be eligible for per capita payments.

(2) Members of the Investment Committee shall serve as the Trustees of the Minors Trust Fund, provided that there shall be no fewer than three Trustees. The Trustees shall select an institutional Manager and such other advisors as they deem necessary, with suitable expertise and discretion to administer the Minors Trust Fund and invest

1 its assets. The Minors Trust Fund shall be invested in a reasonable and prudent  
2 manner so as to protect the principal and seek a reasonable return.

3 (3) The Minors Trust Fund shall be established as a "grantor" trust, under which the  
4 Tribe is the grantor and owner of the trust for the benefit of its enrolled minor and  
5 incompetent members.

6 (4) The Minors Trust Fund shall comply with all applicable Internal Revenue Code  
7 provisions and Internal Revenue Service (IRS) regulations, revenue procedures,  
8 revenue rulings, or other guidance in force from time to time, to ensure that amounts  
9 contributed to and held in the fund shall not be taxable to the individual enrolled  
10 member until they are actually distributed, or made available for distribution  
11 pursuant to this section, to the individual enrolled member. The necessary provisions  
12 to achieve these goals shall be included in the trust documents.

13 (5) *Contingent Provisions.* To the extent that applicable law and IRS guidance allows  
14 the following trust provisions to be included without triggering adverse tax  
15 consequences to the individual trust beneficiaries (e.g., taxation prior to actual  
16 distribution of the trust funds), the following shall be included in, or later added by  
17 amendment to, the trust documents. To the extent that the tax consequences of  
18 including these provisions is unclear or uncertain under applicable law or IRS  
19 guidance, the Trustees of the Minors Trust Fund are authorized to request an IRS  
20 private letter ruling and to act in accordance with any IRS guidance received pursuant  
21 to such a request.

22 (A) There shall be ~~three~~five staggered distributions from the minor's trust fund to  
23 eligible members reaching the age of majority as follows:

24 1) The first distribution shall be in an amount which is the lesser of \$50,000.00  
25 ~~25,000.00~~ or one ~~fifth~~ fourth the amount of the total amount held in trust  
26 for the eligible member, and shall be made upon meeting the following  
27 eligibility criteria:

28 a. Prior to receiving the first distribution, the enrolled member has  
29 reached the age of 18 and must submit the following documentation:  
30 (1) the original or a certified copy of their high school diploma or GED;  
31 (2) if the member has been home schooled, a writing from the state  
32 agency in the state in which the member was home schooled indicating  
33 that the member has successfully passed the state-wide test accepted by  
34 the state for such students. The enrolled member must submit the  
35 documentation to the Trustees prior to receiving any funds from the  
36 Minors Trust Fund. If the Tribe determines that the diploma, GED or  
37 other writing is questionable, the Tribe may require other proof. Proof  
38 of completion of a course of studies from a correspondence school is  
39 not acceptable; a student or graduate of a correspondence school must  
40 also prove that they have successfully passed the same or a similar  
41 state-wide test as required in this subsection of home school graduates.  
42 Effective April 1, 2011, any minor member will be required to  
43 complete the ~~online Manage Your EBCI Money~~ required financial  
44 cCourse and include his/her Certificate of Completion to be entitled to

1 receive any monies. Any minor member, who fails to submit the  
2 appropriate information as described above shall not be entitled to any  
3 monies held on their behalf in the Minors Trust Fund until the minor  
4 member has provided evidence of attaining such a degree and  
5 Certificate of Completion for the Manage Your EBCI Money Course  
6 financial course; or

7 b. The minor member reaches the age of 20 years, whichever occurs  
8 first. Minor members with learning disabilities or other disabilities may  
9 present a certificate of attendance showing that the student has attended  
10 a full 12 years of school and that certificate shall be deemed to be an  
11 equivalent degree for purposes of this section.

12 2) The second distribution shall be in an amount which is the lesser of  
13 \$25,000.00-50,000.00 or one-fourth the amount of the total amount  
14 remaining after the first distribution held in trust for the eligible member,  
15 and shall be made when the member reaches the age of 24 years. If the  
16 first distribution occurs under 16C-6(a)(5)(A) 1) b. above, then the eligible  
17 member shall be distributed both amounts of the first and second  
18 disbursements, at the same time, totaling the lesser of \$50,000.00-100,000  
19 or one-third half the total of the total amount held in trust for the eligible  
20 member.

21 3) The third distribution shall be made when the eligible member reaches age  
22 22 years and shall be in an amount which is the lesser of \$50,000 or one-  
23 third the amount of the total account balance.

24 4) The fourth distribution shall be made when the eligible member reaches age  
25 24 years and shall be in an amount which is the lesser of \$50,000 or one-  
26 half the amount of the total account balance.

27  
28 5) The fifth third distribution shall be in an amount totaling the entire  
29 remaining amount held in trust for the eligible member and shall be made  
30 when the eligible member reaches the age of 25 years.

31  
32  
33 **BE IT FINALLY ORDAINED** that all ordinances which are inconsistent with this ordinance are  
34 rescinded, and that this ordinance shall become effective upon ratification by the Principal  
35 Chief.  
36

37 *Submitted by Brandi Claxton, Finance Director*

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA  
DECEMBER 5, 2024

AMENDMENT to Ordinance No. 334 (2024) :

- On page 3, line 31, add subsection (b) “the amendments to this section presented by Ordinance 334 (2024) shall be implemented and effective January 1, 2025, this applies to all applications received after 1/1/2025.

The attached Resolution/Ordinance 334 dated NOVEMBER 7, 2024 was:

PASSED ( X )

KILLED ( )

and ratified in open Council on DECEMBER 5, 2024 by 100 voting for the act and 0 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French	X			
Perry Shell	X			
Boyd Owle	X			
Bucky Brown	X			
Tom Wahnetah	X			
David Wolfe	X			
Adam Wachacha	X			
Mike Parker	X			
Bo Crowe	X			
Jim Owle	X			
Dike Sneed	X			
Michael Stamper	X			
	100	0	0	0

*Mike Parker*

TRIBAL COUNCIL CHAIRMAN

*Michelle Thompson*

ENGLISH CLERK

*Michael Hill*

PRINCIPAL CHIEF

APPROVED (  ) VETOED ( )

VETO UPHeld ( ) VETO DENIED ( )

DATE: 12-10-24

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

PASSED ( )

KILLED ( )

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

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

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