

State Recognition of American Indian Tribes

State	State Recognition Process	Benefit(s) of State Recognition*
<p>Alabama Code of Ala. §41-9-708-710 Admin. Code Chapter 475-x-3</p>	<p>The procedures and criteria required to achieve state recognition for an Indian tribe, band or group is established in both Alabama statute and regulations; State recognition is approved by a ¾ majority vote of the Alabama Indian Affairs Commission</p>	<p>State recognized Indian tribes, bands or groups are each entitled to have one representative on the Alabama Indian Affairs Commission, which is authorized to seek and receive from the federal government any grants, funds or other benefits for Indians</p>
<p>Connecticut C.G.S. §47-59a-59b</p>	<p>Tribes were recognized by statute in the 1970s, based on historic presence in the State and treaties</p>	<p>Lands belonging to state-recognized tribes have official status as state tribal reservations; tribes are self-governing entities possessing powers and duties over tribal members and reservations: Such powers and duties include the power to: (1) Determine tribal membership and residency on reservation land; (2) determine the tribal form of government; (3) regulate trade and commerce on the reservation; (4) make contracts; and (5) determine tribal leadership in accordance with tribal practice and usage; each state-recognized tribe appoints a member to the state Indian Affairs Council, which provides services to the Indian reservation community; allows tribes to apply for federal grants and state benefits</p>
<p>Georgia O.C.G.A. §44-12-280 - §44-12-300</p>	<p>Four state tribes are recognized in statute; the General Assembly has the power to recognize additional tribes, bands, groups or communities as the General Assembly deems appropriate; the Georgia Council on American Indian Concerns has created guidelines for the General Assembly to consider when deciding upon state recognition of Indian tribes, bands, groups or communities</p>	<p>State recognition assists tribes in their efforts to maintain their cultural identity and traditions; provides access for them to federal and state programs; five tribal members serve on the state Council on American Indian Concerns, which advises state and local governments on issues related to tribes, and supports economic development within American Indian communities in Georgia</p>
<p>Louisiana RS 46:2301, 2302, 2305</p>	<p>State recognition of tribes has been achieved through the passage of concurrent resolutions by the Louisiana Senate and House of Representatives; In 2018, the Native American Commission was charged with establishing criteria for state tribal recognition, and recommending the criteria to the Governor and Legislature for adoption</p>	<p>State recognition assists tribes to secure a right to participate in some state and federal programs; allows the tribes to be members of the Native American Commission, which serves in an advisory capacity to the Governor's Office of Indian Affairs</p>
<p>Maryland St. Govt. Article §9.5-302 – §9.5-312 C.M.R. sec. 01.06.01.01 - 01.05.01.13</p>	<p>Commission on Indian Affairs established a process, with criteria, to recognize Native American tribes, bands, groups and clans, and makes recommendations to the Governor as to whether or not state recognition should be granted; Governor will issue an executive order formally recognizing a tribe, band, group or clan</p>	<p>State recognition assists tribes, bands, groups and clans in their efforts to maintain their cultural identity and traditions; provides access for them to federal and state programs</p>

State	State Recognition Process	Benefit(s) of State Recognition*
<p>Massachusetts Chapter 6A M.G.L. §8A</p>	<p>State has not established a formal recognition process for tribes; 1976 Executive Order created the Massachusetts Commission on Indian Affairs to advise the Commonwealth as to how best to establish positive relationships with tribes; the EO established a state relationship with several tribes, including the Nipmuc Tribe</p>	<p>Members of state-recognized tribes may be appointed to the Commission on Indian Affairs; allows members to apply for tuition assistance at a state college or university; allows members to apply for other state benefits, as well as federal grants</p>
<p>North Carolina N.C. Gen. Stat. §143B-405 - §143B-411 01 NCAC 15.0201 – 15.0212</p>	<p>Procedures and criteria required for tribes to achieve state recognition are established in statute and regulations; the decision as to whether to recognize a tribe is the sole responsibility of the North Carolina State Commission on Indian Affairs</p>	<p>State recognition allows tribal members to qualify for state benefits, including federal educational scholarships and grants; allows tribes to hold land in trust; one member from each state-recognized tribe is appointed as a member of the Commission on Indian Affairs</p>
<p>South Carolina SC Code §1-31-40 SC Code of Regulations Chapter 139</p>	<p>State originally recognized tribes by statute; In 2003, the State Commission for Minority Affairs was granted the authority to determine, approve, and acknowledge by certification state recognition for Native American Indian entities; in 2018, the Commission’s authority to deem tribes eligible for state-recognition was repealed</p>	<p>State recognition treats tribal governments as having the same authority as county governments; allows tribes to apply for federal grants; allows tribes to weigh-in on Native American issues in the state</p>
<p>Vermont 1 V.S.A. §851- §856</p>	<p>Procedures required to achieve state recognition are established in statute; the Vermont Commission on Native American Affairs issues a recommendation, and recognition may be achieved either via approval of the General Assembly, or if within two years after a recommendation for recognition has been issued, the General Assembly has taken no action on the recommendation</p>	<p>State recognition permits the creation, display, and sale of Native American arts and crafts, and to legally label arts and crafts as Indian or Native American-produced; allows tribes to receive assistance and support from the federal Indian arts and crafts board; tribes become eligible for federal assistance with educational, housing and cultural opportunities</p>
<p>Virginia Va. Code Ann. §2.2-401.01</p>	<p>State has utilized both executive and legislative state recognition processes; the Virginia Indian Advisory Board’s powers include establishing tribal recognition criteria, and recommending to the Governor and the General Assembly any tribes that should be granted official state recognition</p>	<p>State recognition allows members to hunt on state-owned land or fish freshwater bodies of water without obtaining a state license; three members of state-recognized tribes serve on the Indian Advisory Board; allows tribes to market tribal events as culturally and historically authentic; allows tribes to apply for federal grant money</p>

*Source: State statutes and administrative regulations; state-tribal commission websites

LEGISLATURE

Code of Alabama 1975

<p><u>Title 19</u> FIDUCIARIES AND TRUSTS.</p> <p><u>Title 20</u> FOOD, DRUGS AND COSMETICS.</p> <p><u>Title 21</u> HANDICAPPED PERSONS.</p> <p><u>Title 22</u> HEALTH, MENTAL HEALTH, AND ENVIRONMENTAL CONTROL.</p> <p><u>Title 23</u> HIGHWAYS, ROADS, BRIDGES AND FERRIES.</p> <p><u>Title 24</u> HOUSING.</p> <p><u>Title 25</u> INDUSTRIAL RELATIONS AND LABOR</p>	<p>(a) There is hereby created and established the Alabama Indian Affairs Commission hereinafter called the commission, which shall be administered under the direction and supervision of the Joint Committee on Administrative Regulations, as provided by Section 41-22-22.</p> <p>(b) The commission shall be composed of at least 11 members. All members of the commission must reside in Alabama. Members shall include a member of the State Senate, appointed by the Lieutenant Governor, and a member of the House of Representatives, appointed by the Speaker of the House of Representatives, seven Indian representatives from the seven tribes, bands, or groups in the State of Alabama, and one member at large. The Governor shall appoint seven Indian members from recommendations submitted by each of the seven Indian tribes, bands or groups, principally geographically located as follows: The Poarch Band of Creeks of Escambia County, one member; the Mowa Band of Choctaws of southwest Alabama, one member; the Star Clan of Muscogee Creeks of Pike County, one member; the Echota Cherokees of Alabama, one member; the Cherokees of northeast Alabama, one member; the Cherokees of southeast Alabama, one member; and the Ma-Chis Lower Creek Indian Tribe, one member. Each of the seven identified groups shall have one member. The commission shall appoint one Alabama resident, who is a member of a federally recognized Indian tribe, band or group, that is not a member of any tribe represented on this commission. The Governor shall appoint one member at large, who may be Indian or non-Indian; provided, however, that the majority of the members of the commission shall always be Indian. All above stated tribes, bands, and groups shall be state recognized upon passage of this article. The commission shall have the power to recognize additional Indian tribes, bands, or groups. The commission shall adopt appropriate procedure for such recognition process. Any recognized Indian tribe, band, or group shall be entitled to have one representative on the commission who shall be appointed for an initial term of three years by the Governor and subject thereafter to the same requirements and privileges as specified in subsections (b) and (c) and any other applicable sections. Said member shall be granted the same voting powers accorded other members.</p>
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LEGISLATURE

Code of Alabama 1975

<p><u>Title 19</u> FIDUCIARIES AND TRUSTS.</p> <p><u>Title 20</u> FOOD, DRUGS AND COSMETICS.</p> <p><u>Title 21</u> HANDICAPPED PERSONS.</p> <p><u>Title 22</u> HEALTH, MENTAL HEALTH, AND ENVIRONMENTAL CONTROL.</p> <p><u>Title 23</u> HIGHWAYS, ROADS, BRIDGES AND FERRIES.</p> <p><u>Title 24</u> HOUSING.</p> <p><u>Title 25</u> INDUSTRIAL RELATIONS AND LABOR</p>	<p><u>Section 41-9-709</u></p> <p>Purpose.</p> <p>The purpose of this commission shall be to deal fairly and effectively with Indian affairs; to bring local, state, federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of Alabama; to provide aid for Indians as needs demonstrate; to assist Indian communities in social and economic development; to promote recognition of the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to the American Indian; and to establish appropriate procedures to provide for legal recognition of any future Indian organization who desires state recognition.</p> <p><i>(Acts 1984, No. 84-257, p. 423, §2.)</i></p>
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LEGISLATURE

Code of Alabama 1975

<p><u>Title 19</u> FIDUCIARIES AND TRUSTS.</p> <p><u>Title 20</u> FOOD, DRUGS AND COSMETICS.</p> <p><u>Title 21</u> HANDICAPPED PERSONS.</p> <p><u>Title 22</u> HEALTH, MENTAL HEALTH, AND ENVIRONMENTAL CONTROL.</p> <p><u>Title 23</u> HIGHWAYS, ROADS, BRIDGES AND FERRIES.</p> <p><u>Title 24</u> HOUSING.</p> <p><u>Title 25</u> INDUSTRIAL RELATIONS AND LABOR</p>	<p><u>Section 41-9-710</u></p> <p>Powers and duties.</p> <p>It shall be the duty of the commission to study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs; to investigate relief needs of Indians of Alabama and to provide technical assistance in the preparation of plans for the alleviation of such needs; to confer with appropriate officials of local, state and federal governments and agencies of those concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in Alabama; to cooperate with and secure the assistance of the local, state and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any program regarding Indian affairs adopted or planned by the federal government to the end that the Alabama Indian Affairs Commission secure the full benefit of such programs; provided, however, that such commission is hereby authorized to directly seek and receive from the federal government any grants, funds or other benefits which may be available for Indians; to review all proposed or pending legislation and amendments to existing state legislation affecting Indians in Alabama; and to conduct public hearings on matters relating to Indian affairs.</p> <p><i>(Acts 1984, No. 84-257, p. 423, §3.)</i></p>
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Alabama

ALABAMA INDIAN AFFAIRS COMMISSION
ADMINISTRATIVE CODE

CHAPTER 475-X-3
PROCEDURES AND CRITERIA FOR THE RECOGNITION
OF INDIAN TRIBES, BANDS, OR GROUPS

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475-X-3-.01 Procedure For Recognition.

(1) Petitioner shall submit to the Alabama Indian Affairs Commission a petition requesting state recognition which contains the information described below. The petition must indicate the type of recognition sought as specified in Rule No. 475-X-3-.02 of these regulations.

(2) A decision in favor of recognition must be rendered by a three-fourths (3/4) majority vote of the commission members. The time period in which the commission may process and render a decision on the petition shall not exceed fifteen (15) months from the date of receipt of applicability by the commission.

(3) A decision of denial may be timely appealed. Such appeal for reconsideration must be made not later than 30 days from the date of the commission decision. The request for reconsideration shall specify one of the following categories:

(a) Appeal with New and/or Additional Evidence:

1. Petitioner shall prepare an appeal of petition which presents new or additional evidence not previously presented to the commission for consideration. Petitioner shall have 90 days from the date of the request for reconsideration within which to submit said new or additional evidence.

(b) Appeal without New and/or Additional Evidence:

1. Petitioner shall prepare an appeal of petition stating specifically why the commission should reconsider its decision. Petitioner shall have 30 days from the date of request for reconsideration to present its case for reconsideration.

(c) In either of the above situations, the petitioner appellant must be afforded a hearing within 90 days of receipt of such documentation as stated in (a) and (b) above. The commission shall thereafter render its decision not more than fifteen (15) months from the date of such meeting.

(d) All notices called for shall be in writing by certified or registered mail.

Authors: Criteria Committee Draft modified and adopted by Alabama Indian Affairs Commission.

Statutory Authority: Code of Ala. 1975, §41-9-702.

History: Filed April 5, 1985. **Amended:** Filed June 13, 2003; effective July 18, 2003.

475-X-3-.02 Types Of Recognition.

(1) An "Indian Tribe, Band, or Group" is a population of Indian people related to one another by blood through their Indian ancestry, tracing their heritage to an Indian tribe, band, or group indigenous to Alabama. No splinter groups, political factions, communities or groups of any character which separate from the main body of a tribe, band, or group currently recognized by the State of Alabama may be considered for recognition by the Commission.

(a) Splinter groups are ineligible to make application for state recognition. Splinter groups are defined in the Glossary for the recognition criteria as "an individual member/former member or group of members/former members who have relinquished membership in a federal or state recognized Indian entity to start or participate in a parallel or similar Indian entity."

(b) A group, as a religious sect or a political faction, that has broken away from a parent group.
Author: Criteria Committee Draft modified and adopted by Alabama Indian Affairs Commission.

Statutory Authority: Code of Ala. 1975, §41-9-702.

History: Filed April 5, 1985. **Amended:** Filed April 5, 1995; effective May 10, 1995. **Amended:** Filed June 13, 2003; effective July 18, 2003.

475-X-3-.03 Criteria For Recognition As A Tribe, Band Or Group.

(1) Petitioner must meet all criteria as specified in this section.

(2) Petitioner must present a list of at least five hundred (500) members who reside in the state of Alabama, of the tribe, band, or group (list must be inclusive by name and physical addresses), unless this requirement is waived by an affirmative vote of three-fourths (3/4) of the membership of the commission.

(3) Petitioner must present evidence that each of its members is a descendent of individuals recognized as Indian members of an historical Alabama tribe, band, or group found on rolls compiled by the federal government or otherwise identified on other official records or documents. Copies of ancestry charts with certified copies of birth certificates, or other official documents that clearly link petitioner to ancestor for each member must accompany the petition. Each chart must bear the notarized signature of the individual to whom it pertains.

(4) Petitioner must present satisfactory evidence that its members form a kinship group whose Indian ancestors were related by blood and such ancestors were members of a tribe, band or group indigenous to Alabama. This evidence may be the equivalent of the ancestry charts required in Section 3 above.

(5) The petitioner must swear or affirm the following:

(a) No individual holding or eligible for membership in a federally or state recognized tribe, band or group may be accepted for membership in the petitioning group.

NOTE: This requirement is for the protection of members of federally or state recognized tribes who might otherwise forfeit services by becoming members of a non-recognized tribal group.

(6) Evidence must be presented that the petitioning tribe, band or group has been identified with a tribe, band or group or Indian community from historical times (200 years) until the present as "American Indian" and has a currently functioning governing body.

(a) Ancestry charts must be verified and approved by written acknowledgement of a Certified Genealogist (CSL) who is a

non-member of the petitioning tribe, band, group or Indian community.

(b) Genealogist must submit a copy of current licensure and documentation of credentials.

(c) Tribal history is a requirement. It may be prepared and written by the tribe, but it must be validated by a certified historian and/or anthropologist.

(d) Historian must submit a resume' of prior work along with documentation of credentials.

(7) Petitioner must include a statement bearing the notarized signatures of the three highest ranking officers of the petitioning tribe, band or group certifying that to the best of their knowledge and belief all information contained therein is true and accurate.

Author: Criteria Committee Draft modified and adopted by Alabama Indian Affairs Commission.

Statutory Authority: Code of Ala. 1975, §41-9-702.

History: Filed April 5, 1985. **Emergency amendment** filed August 28, 1985. **Permanent amendment** filed November 5, 1985.

Amended: Filed June 13, 2003; effective July 18, 2003.

475-X-3-.04 Criteria For Recognition As An Indian Association.
(Repealed 7/18/03)

Author: Criteria Committee Draft modified and adopted by Alabama Indian Affairs Commission

Statutory Authority: Code of Ala. 1975, §41-9-702.

History: Filed April 5, 1985. **Repealed:** Filed June 13, 2003; effective July 18, 2003.

Connecticut

Sec. 47-59a. Connecticut Indians; citizenship, civil rights, land rights. (a) It is hereby declared the policy of the state of Connecticut to recognize that all resident Indians of qualified Connecticut tribes are considered to be full citizens of the state and they are hereby granted all the rights and privileges afforded by law, that all of Connecticut's citizens enjoy. It is further recognized that said Indians have certain special rights to tribal lands as may have been set forth by treaty or other agreements.

(b) The state of Connecticut further recognizes that the indigenous tribes, the Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hill Paugussett are self-governing entities possessing powers and duties over tribal members and reservations. Such powers and duties include the power to: (1) Determine tribal membership and residency on reservation land; (2) determine the tribal form of government; (3) regulate trade and commerce on the reservation; (4) make contracts; and (5) determine tribal leadership in accordance with tribal practice and usage.

(P.A. 73-660, S. 1, 11; P.A. 89-368, S. 16.)

History: P.A. 89-368 added Subsec. (b) giving recognition of powers and duties of indigenous tribes over tribal members and reservations.

Cited. 176 C. 318; 180 C. 474; 217 C. 612; 231 C. 563; 243 C. 115. Although section recognizes the right of tribes to select their own leaders, it does not provide that leadership disputes may be settled through means that violate state criminal statutes. 263 C. 602.

Cited. 18 CA 4; 22 CA 229; judgment reversed, see 217 C. 612. "Rights and privileges" include access to state's courts, and tribe's initiation of summary process action in state court constitutes consent to the court's jurisdiction. 138 CA 204.

Subsec. (a):

"Rights and privileges" must include access to the state's courts; court properly exercised subject matter jurisdiction to adjudicate summary process action involving eviction from reservation land where plaintiffs, by initiating action, consented to court's jurisdiction and the court's exercise of jurisdiction did not interfere with the Schaghticoke Indians' right to self-governance or infringe on any tribal laws or adjudicative authority of the Schaghticoke Indians. 138 CA 204.

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Sec. 47-59b. Indian Affairs Council; composition, duties, executive director, regulations, report. (a) There shall continue to be an Indian Affairs Council, consisting of one representative from each of the following Indian tribes: The Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hill Paugussett; to be appointed by the respective tribes, and three persons appointed by the Governor who are electors within the state but not elected or appointive officials of the state or any of its political subdivisions and are not of Indian lineage. Appointments made under this section shall be for terms of three years. Each Indian tribe may designate from among its members an alternate representative who may serve from time to time in place of its appointive representative. Vacancies on said council shall be filled by the respective appointing authority for the unexpired balance of the term. The members of said council shall be compensated for their services thereon at the rate of twenty-five dollars per day and shall be reimbursed for their necessary expenses. Said council shall provide

services to the Indian reservation community of the state and formulate programs suitable to its needs. The council may select an executive director who shall serve at no expense to the state but may be compensated with funds contributed by the tribes.

(b) The Indian Affairs Council shall review the regulations governing Indian affairs in the state of Connecticut and advise the Commissioner of Energy and Environmental Protection on promulgation of new regulations. The council shall report annually, no later than September first, to the Governor and the General Assembly on the activities of the council and the state of affairs of the Indian people in the state.

(P.A. 73-660, S. 2, 8, 10, 11; P.A. 74-168, S. 1, 2; P.A. 75-129, S. 1, 2; P.A. 81-375, S. 1, 4; P.A. 89-368, S. 20; P.A. 93-435, S. 16, 95; P.A. 11-80, S. 1.)

History: P.A. 74-168 continued existence of council, added representative from Golden Hill tribe and allowed compensation of \$25 per day where previously members received no compensation but were reimbursed for necessary expenses; P.A. 75-129 authorized tribes to designate alternate representatives; P.A. 81-375 amended Subsec. (a) to change names of tribes as of July 1, 1981; P.A. 89-368 amended Subsec. (a) by substituting "Paucatuck Eastern Pequot" for "Paucatuck Pequot" and by deleting an obsolete provision" concerning terms and deleted Subsec. (b) re qualifications necessary for a person's designation as an Indian and re eligibility for residing on reservation lands and relettered Subsec. (c) as Subsec. (b); P.A. 93-435 amended Subsec. (b) to make a technical change, effective June 28, 1993; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (b), effective July 1, 2011.

See Sec. 47-65 re management of reservations and reservation residents and re duties of Commissioner of Energy and Environmental Protection in connection with reservation management.

Indian Affairs Council is an "agency" within the meaning of Sec. 4-166(1) and is subject to the provisions of the Uniform Administrative Procedure Act. 180 C. 474. Cited. 243 C. 115.

Cited. 18 CA 4; 22 CA 229; judgment reversed, see 217 C. 612.

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O.C.G.A. § 44-12-260

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Current through the 2020 Regular Session of the General Assembly

GA - Official Code of Georgia Annotated TITLE 44. PROPERTY CHAPTER 12. RIGHTS IN PERSONALTY ARTICLE 7. PROTECTION OF AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS PART 1. AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS HELD BY MUSEUMS

§ 44-12-260. Definitions

As used in this article, the term:

- (1) "American Indian" means an individual who is a member of a nation, tribe, band, group, or community that was indigenous to Georgia; is a descendant of persons named as American Indians in the Georgia Senate Bill 89, enacted during the legislative session of 1839 (Ga. L. 1839, p. 374); or is a descendant of persons included in the United States Indian Claims Commission, Docket 21, 1962, and those sequel dockets pertaining to the Creek Nation east of the Mississippi River.
- (2) "American Indian tribe" means any nation, tribe, band, group, or community that was indigenous to Georgia and is recognized as eligible for the special programs and services provided by the United States to Indians because of its status as Indian; or whose members are descendants of American Indians indigenous to Georgia.
- (3) "Burial object" means an object that, as a part of the death rite or ceremony of a culture, is reasonably believed to have been placed with individual human remains either at the time of death or later. Such term includes any item defined in paragraph (4) of Code Section 36-72-2 and may also include but not be limited to urns; whole or broken ceramic, metal, or glass vessels; chipped stone tools; ground stone tools; worked bone and shell items; clothing; medals; buttons; jewelry; firearms; edged weapons; and the caskets or containers for the human remains.
- (4) "Burial site" or "burial ground" means an area dedicated to and used for interment of human remains. The fact that the area was used for burial purposes shall be evidence that it was set aside for burial purposes. Such a site may be any natural or prepared physical location, whether originally below, on, or above the



Document: ~~O.C.G.A. § 44-12-260~~
~~(6) "Cultural affiliation" means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present-day~~

~~Indian tribe and an identifiable earlier group.~~

~~(7) "Human remains" means the bodies of deceased human beings in any stage of decomposition, including cremated remains.~~

~~(8) "Inventory" means a simple itemized list that summarizes the information called for by this article.~~

~~(9) "Museum" means any institution or state or local government agency or any institution of higher learning that is not included in paragraph (8) of Section 2 of Public Law 101-601.~~

History

Code 1981, § 44-12-260, enacted by Ga. L. 1992, p. 1790, § 6; Ga. L. 1993, p. 91, § 44; Ga. L. 2000, p. 882, § 6.

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**GA - Official Code of Georgia Annotated TITLE 44. PROPERTY CHAPTER
12. RIGHTS IN PERSONALTY ARTICLE 7. PROTECTION OF AMERICAN
INDIAN HUMAN REMAINS AND BURIAL OBJECTS PART 2. COUNCIL ON
AMERICAN INDIAN CONCERNS**

§ 44-12-280. Council on American Indian Concerns created; membership; assignment for administrative purposes; terms of office; removal for failure to attend meetings

(a) As used in this Code section, the term:

(1) "Anthropologist" means a physical anthropologist who holds a Ph.D. in physical anthropology with demonstrated experience in on-site identification of human skeletal remains and who is currently active in the profession.

(2) "Archeologist" means any person who:

(A) Is a member of or meets the criteria for membership in the Society of Professional Archaeologists and can demonstrate experience or formal training in the excavation and interpretation of human graves; or

(B) Was employed on July 1, 1992, by the state or by any county or municipal governing authority as an archeologist.

(b) There is created the Council on American Indian Concerns, which shall consist of nine members to be appointed by the Governor. Five members shall be American Indians. Three members shall represent the scientific community and shall include at least one archeologist and one anthropologist; provided, however, that if no anthropologist can be identified who is willing to serve, then the membership reserved to an anthropologist shall be filled by a person who holds a master's degree or a higher degree in the field of anthropology and is currently active in the profession. One member shall be selected from the general public at large. All members of the council shall be legal residents of the State of Georgia. The Governor shall consult the tribal groups located in the state recognized by general law, the Human Relations Commission, the Georgia Council of Professional Archaeologists, the Society for Georgia Archaeology, and the Department of Natural Resources for recommendations before appointing members of the council.

(c) The council is assigned to the Department of Natural Resources for administrative purposes only, as specified in Code Section 50-4-3.



~~(d) The terms of appointment for members of the council shall be as follows: two American Indians, one scientist, and one representative of the general public shall be appointed for an initial term of three years; two American Indians, one scientist, and one representative of the general public shall be appointed for an initial term of two years; and one scientist shall be appointed for an initial term of one year. The member who represents the general public and who has the least time left in his or her term on July 1, 2002, shall cease to be a member on that date, and a member who is an American Indian shall be appointed to take office on that day for a term of three years. The Governor shall specify the length of the initial term of the councilmembers in their initial appointments. After such initial terms, all councilmembers shall be appointed for terms of three years. Active and continued participation by members of the council is needed. The Governor may remove any member who fails to attend three regularly scheduled consecutive meetings. Councilmembers may succeed themselves.~~

History

Code 1981, § 44-12-280, enacted by Ga. L. 1992, p. 1790, § 6; Ga. L. 2002, p. 632, § 2; Ga. L. 2017, p. 212, § 1/HB 153.

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§ 44-12-283. Powers and duties of council

The council shall have the following powers and duties:

- (1) To serve as a resource for the notification of relatives under paragraph (4) of Code Section 36-72-5, relating to notification of relatives pursuant to obtaining a permit for land use change or disturbance; provided, however, that failure of the council to respond within 30 days to a request to serve as a resource for the notification shall not prevent the notification process or any permit process from taking place;
- (2) To receive notice of permits issued and contracts issued under subsection (c) of Code Section 12-3-52 that affect aboriginal, prehistoric, or American Indian burial sites;
- (3) To monitor the inventory and identification process conducted under Code Section 44-12-261 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;
- (4) To facilitate the resolution of disputes among American Indian tribes, lineal descendants of American Indians, and museums relating to the return of American Indian remains and burial objects pursuant to Code Section 44-12-262, including convening the parties to the dispute;
- (5) To advise the Department of Natural Resources, the General Assembly, the Human Relations Commission, the Secretary of State, local political subdivisions, state and local law enforcement agencies, and other appropriate agencies and individuals regarding policy matters relating to issues affecting American Indians;
- (6) To apply for and receive grants, gifts, and direct appropriations from the federal government; the state government; any county, municipal, or local government; any board, bureau, commission, agency, or establishment of any such government; any other organization, public or private; and any individual or groups of individuals; and
- (7) To preserve and foster the culture and heritage of Indians and Indian descendants in this state and to be the agency to deal with specific federal programs which are required to be dealt with only by an Indian agency or organization.



O.C.G.A. § 44-12-283.1

Copy Citation

Current through the 2020 Regular Session of the General Assembly

GA - Official Code of Georgia Annotated TITLE 44. PROPERTY CHAPTER 12. RIGHTS IN PERSONALTY ARTICLE 7. PROTECTION OF AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS PART 2. COUNCIL ON AMERICAN INDIAN CONCERNS

§ 44-12-283.1. Additional powers of council

In addition to any other powers granted by law, the council may, in its discretion, study, consider, accumulate, compile, assemble, and disseminate information on any aspect of Indian affairs; investigate relief needs of Indians in Georgia and provide technical assistance in the preparation of plans for the alleviation of such needs; confer with appropriate officials of local, state, and federal governments, and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs, in order to encourage and implement coordination of applicable resources to meet the needs of Indians in Georgia; cooperate with and secure the assistance of the local, state, and federal governments, or any agencies thereof, in formulating any such programs and coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government, to the end that the department secures the full benefit of such programs; review all proposed or pending state legislation and amendments to existing state legislation affecting Indians in Georgia; conduct public hearings on matters relating to Indian affairs; study the existing status of recognition of all Indian groups, tribes, and communities presently existing in the state; expend funds in compliance with state regulations; and make legislative recommendations.



History

O.C.G.A. § 44-12-300

Copy Citation

Current through the 2020 Regular Session of the General Assembly

GA - Official Code of Georgia Annotated TITLE 44. PROPERTY CHAPTER 12. RIGHTS IN PERSONALTY ARTICLE 7. PROTECTION OF AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS PART 3. LEGITIMATE AMERICAN INDIAN TRIBES

§ 44-12-300. Tribes, bands, groups, or communities recognized by state as legitimate American Indian Tribes

(a) The State of Georgia officially recognizes as legitimate American Indian tribes of Georgia the following tribes, bands, groups, or communities:

(1) The Georgia Tribe of Eastern Cherokee

P.O. Box 1993

Dahlonega, Georgia 30533;

(2) The Lower Muscogee Creek Tribe

Route 2, Box 370

Whigham, Georgia 31797; and

(3) The Cherokee of Georgia Tribal Council

Saint George, Georgia 31646.

(b) The General Assembly may recognize tribes, bands, groups, or communities other than those stated in subsection (a) of this Code section as the General Assembly deems appropriate.

History

Code 1981, § 44-12-300, enacted by Ga. L. 1993, p. 1813, § 2.

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< RS 46:2301 >



CHAPTER 31. GOVERNOR'S OFFICE OF INDIAN AFFAIRS

§2301. Creation; personnel

An agency of the state to be known as the "Governor's Office of Indian Affairs" is hereby created and established in the office of the governor. Said office shall exercise the powers and duties hereinafter set forth or otherwise provided by law. The office shall be administered by an executive director, who shall be appointed by the governor to serve at his pleasure. The executive director shall employ necessary staff to carry out the duties and functions of the office as otherwise provided in this Chapter, or as otherwise provided by law.

Added by Acts 1980, No. 702, §2, eff. July 24, 1980; Acts 1987, No. 213, §1; Acts 1993, No. 275, §2, eff. July 1, 1993.

{{NOTE: SEE ACTS 1987, NO. 213, §§3, 4, 5, 6, and 7.}}

{{NOTE: SEE ACTS 1993, NO. 275, §3.}}

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§2302. Powers, duties, functions

The office shall have the following powers and duties:

- (1) To administer the programs relative to Louisiana Indians.
- (2) To collect facts and statistics and conduct special studies of conditions pertaining to the employment, health, education, financial status, recreation, social adjustment, or other conditions affecting the welfare of the Indian people.
- (3) To provide for a mutual exchange of ideas and information on national, state, and local levels.
- (4) To make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the Indians in the state.
- (5) To coordinate the services of all agencies in the state serving the Indians and to require reports from such state agencies and institutions.
- (6) To serve as the official negotiating agent of the state upon which federally recognized tribes in the state of Louisiana may serve notice of any request to negotiate state tribal compacts.
- (7) To make recommendations to the governor for the composition of the negotiating team for the state.
- (8) To make recommendations regarding proposed compacts and submit them to the governor for his approval and signature.
- (9) To prepare and submit an annual report to the legislature and to the governor.
- (10) To adopt and promulgate rules and regulations that are deemed necessary to implement the provisions of this Chapter in accordance with the provisions of the Administrative Procedure Act.

Added by Acts 1980, No. 702, §2, eff. July 24, 1980; Acts 1987, No. 213, §1; Acts 1993, No. 275, §2, eff. July 1, 1993.

{{NOTE: SEE ACTS 1993, NO. 275, §3.}}

RS 46:2305

§2305. Native American Commission; creation; membership; compensation

A. The Native American Commission is hereby created within the Governor's Office of Indian Affairs. The commission shall serve in an advisory capacity to the Governor's Office of Indian Affairs.

B. The following shall each appoint one member:

- (1) Adai Caddo Indians of Louisiana.
- (2) Bayou Lafourche Band of Biloxi-Chitimacha-Choctaw.
- (3) Chitimacha Tribe of Louisiana.
- (4) Choctaw-Apache Tribe of Ebarb.
- (5) Clifton Choctaw Tribe of Louisiana.
- (6) Coushatta Tribe of Louisiana.
- (7) Four-Winds Cherokee Tribe.
- (8) Grand Caillou/Dulac Band.
- (9) Isle de Jean Charles Band of Biloxi-Chitimacha-Choctaw Tribe.
- (10) Jena Band of Choctaw Indians.
- (11) Louisiana Band of Choctaw Indians.
- (12) Natchitoches Tribe of Louisiana.
- (13) Point au Chien Tribe.
- (14) Tunica-Biloxi Tribe of Louisiana.
- (15) United Houma Nation.

C. The following members shall serve as ex officio members:

- (1) The director of the Governor's Office of Indian Affairs.
- (2) The secretary of the Department of Veterans Affairs or designee.
- (3) The state archeologist or his designee.

D. The commission may add state-recognized tribes and federally recognized tribes to its membership as tribes are officially granted state or federal recognition.

E. All appointments shall be made for four years except in cases where appointees are unable to complete their terms. If a member is unable to complete his term, the appointing entity shall appoint a member for the length of the unexpired term.

F. The commission shall elect as officers a chairperson, vice chairperson, and secretary from its membership. All officers shall serve for two years. The commission shall create its own bylaws. The commission shall meet at least once every quarter, and may meet more often as determined by the chairman.

G. A majority of the voting membership shall constitute a quorum. All official business of the commission shall require the affirmative vote of not less than a majority of the members present. Voting by proxy is prohibited.

H. Commission members shall not receive compensation or a per diem for their services or attendance at council meetings, except for those travel-related expenses already provided for by their agency.

I. The commission shall be domiciled in East Baton Rouge Parish.

J. The commission shall do the following:

- (1) Advise the Governor's Office of Indian Affairs regarding issues pertaining to Native Americans.

(2) Identify the needs and concerns of the Native Americans in Louisiana and bring such needs and concerns to the attention of the Governor's Office of Indian Affairs.

(3) Make recommendations to the Governor's Office of Indian Affairs to address the needs and concerns of Native Americans in Louisiana.

(4) Establish criteria for state tribe recognition and recommend criteria to the Governor's Office of Indian Affairs and legislature for adoption and implementation.

(5) Review applications for the Office of Indian Affairs Scholarship and recommend scholarship awardees to the Governor's Office of Indian Affairs.

(6) Promote Native American culture, awareness, and education across the state.

(7) Promote Native American Heritage Month in Louisiana.

(8) Conduct a comprehensive review of all state departments and agencies to identify obstacles to the effective delivery of governmental services by all service providers at all levels of government to Native Americans, propose methods for removing those obstacles, and submit such proposals to the appropriate governmental entity or entities.

K. The commission shall have authority to request consultation or information, or both, from any state department or agency serving Native Americans. The department or agency shall give priority to the request and shall provide the data or assistance as requested. The commission shall maintain the confidentiality of any information or records provided, as required by laws relative to such information and records.

L. The Governor's Office of Indian Affairs shall assist as needed in providing staff support for the council, including but not limited to the scheduling of meetings.

M. Legislation may be recommended by the commission to the Governor's Office of Indian Affairs only upon approval by a two-thirds vote of the commission members present. The commission shall not recommend legislation that would impair ownership interests in any immovable property or any mineral rights associated therewith.

N. The commission shall annually issue a report of its findings and recommendations to the governor and legislature.

Acts 2018, No. 102, §1.

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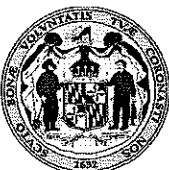
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§9.5–302.

There is a Commission on Indian Affairs in the Governor's Office of Community Initiatives.

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§9.5-303.

- (a) (1) The Commission consists of nine members appointed by the Governor with the advice and consent of the Senate.
- (2) Of the nine Commission members:
- (i) a majority shall be members of the Indian communities of the State; and
 - (ii) at least three shall be members of the Indian communities that are indigenous to the State.
- (b) Each member shall:
- (1) have a demonstrable knowledge of Indian culture and history; and
 - (2) be sensitive to the problems of Indian communities.
- (c) (1) An applicant for membership on the Commission shall submit under oath a list of the applicant's qualifications, including:
- (i) educational history; and
 - (ii) employment background or other relevant experience.
- (2) An applicant for membership on the Commission as an Indian member shall submit documentation or proof of Indian status under the sworn and notarized signature of the custodian of records of the membership rolls of that Indian's community.
- (3) The Governor may require the production of any other documents to prove:
- (i) the qualifications of the applicant; or
 - (ii) the standing or history of the Indian community to which the applicant claims membership.
- (d) (1) The term of a member is 3 years.
- (2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
- (3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

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§9.5–305.

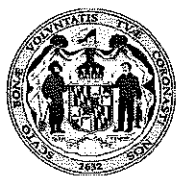
(a) The Commission shall meet at the call of the chair, a majority of the members, or the Governor or the Governor's designee.

(b) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) may receive reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

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§9.5–307.

The Commission shall:

- (1) initiate, direct, and coordinate projects that further the understanding of Indian history and culture;
- (2) survey historic buildings, sites, artifacts, archives, and repositories and publish and disseminate the results;
- (3) make a comprehensive study of the influence of indigenous Indian tribes and their influence on Maryland history and culture, including as subjects of the study:
 - (i) Cherokees;
 - (ii) Chippewas;
 - (iii) Choptanks;
 - (iv) Creeks;
 - (v) Crees;
 - (vi) Delawares;
 - (vii) Haliwas;
 - (viii) Lumbees;
 - (ix) Nanticokes;
 - (x) Piscataways;
 - (xi) Potomacs;
 - (xii) Rappahannocks;
 - (xiii) Seminoles;
 - (xiv) Susquehannas; and

(xv) Wicomicos;

(4) study the status of all Indian communities in the State and assist them in obtaining recognition from the federal government;

(5) study the economic and social needs of Indians in the State and make recommendations to meet these needs;

(6) locate, preserve, and disseminate to the public information about significant buildings and sites relating to Indian history and culture in the State; and

(7) publish an annual report and any other material the Commission considers necessary.

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§9.5–308.

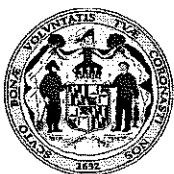
(a) (1) The Commission may seek money from the federal government, foundations, and private sources in addition to State financing.

(2) The Commission may accept gifts, grants, donations, bequests, or endowments for any of its purposes.

(b) Money received under subsection (a) of this section and income and fees derived from educational materials and activities of the Commission are not subject to § 7–302 of the State Finance and Procurement Article.

(c) Money maintained under this section is subject to audit by the State, including the Legislative Auditor.

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§9.5–309.

(a) Subject to the approval of the Governor, the Commission may by regulation establish a process for an Indian community that is indigenous to the State to apply to the Commission for recognition of Maryland Indian status.

(b) (1) If the Commission finds that a petitioning group meets the requirements for recognition, the Commission may recommend to the Governor that it be granted recognition of Maryland Indian status.

(2) A member of the Commission may not vote or participate in deliberations on an application for recognition of Maryland Indian status made by the petitioning group to which the member belongs.

(c) (1) The Governor may issue an executive order providing recognition of Maryland Indian status to the petitioning group.

(2) The executive order:

(i) shall be submitted to the Joint Committee on Administrative, Executive, and Legislative Review; and

(ii) shall take effect 30 days after it is submitted.

(d) (1) This section does not:

(i) create a right of ownership or any other right to land;

(ii) create a benefit or entitlement of any kind;

(iii) impair existing rights, benefits, or entitlements belonging to Indians living in the State;

(iv) impair existing judicial rulings of the State regarding Indians of the State; or

(v) give the Commission the power to establish standards for membership in an Indian community.

(2) The power to establish standards for membership in an Indian community is reserved to the community.

(3) An act or failure to act by the Commission under this section does not create a private cause of action under State law.

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§9.5–310.

Before formal recognition of Maryland Indian status, members of the petitioning group shall submit an affidavit renouncing all tribal rights of ownership of land in the State.

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§9.5–311.

(a) (1) In accordance with Title 10, Subtitle 1 of this article, the Commission shall adopt regulations to carry out §§ 9.5–309 and 9.5–310 of this subtitle.

(2) The regulations shall:

- (i) create the application process;
- (ii) set genealogical standards; and

(iii) specify the standards to be satisfied by an Indian community applying for formal recognition of Maryland Indian status.

(b) (1) The standards adopted under subsection (a) of this section shall be generally consistent with the standards of the United States Bureau of Indian Affairs for tribal recognition by the United States.

(2) The standards shall take into account the special circumstances of Indians indigenous to the State.

(3) The standards shall require:

- (i) that the petitioning group be identified from historical times until the present as Indian;
- (ii) that the members of the petitioning group be descendants from an Indian tribe that existed historically and is indigenous to the State or derived from historical tribes that were indigenous to the State before 1790;

(iii) that the members of the petitioning group be descendants of an Indian tribe that historically inhabited a specific area in the State before 1790; and

(iv) that the membership of the petitioning group be composed principally of individuals who are not members of any other Indian community.

(4) The Commission may adopt regulations to establish any other standards that the Commission considers necessary.

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.01 General.

A. Scope. State Government Article, §9.5-309, Annotated Code of Maryland, permits the Commission on Indian Affairs to establish a process by which a Native American tribe, band, group, or clan indigenous to Maryland can apply to the Commission for formal recognition of Maryland Indian status. State Government Article, §9.5-311, Annotated Code of Maryland, requires the Commission to adopt regulations and procedures necessary to carry out the provisions of State Government Article, §9.5-309, Annotated Code of Maryland. These regulations set forth procedures to carry out those provisions.

B. Objectives. For the benefit of Native American tribes, bands, groups, and clans indigenous to Maryland, the objectives of these regulations are to:

- (1) Clarify their legal status;
- (2) Acknowledge the contributions made by them to Maryland;
- (3) Recognize and assist them in their efforts to maintain their cultural identity and traditions; and
- (4) Provide access for them to federal and State programs available to State-recognized Indian tribes, bands, groups, and clans.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated:

B. Terms Defined.

(1) "Access to Public Records Act" means State Government Article, §§10-611—10-630, Annotated Code of Maryland.

(2) "Ancestor" means an individual from whom a person is descended.

(3) "Ancestry" means having an ancestor.

(4) "Band" means a sociopolitical division of a tribe, separated from the tribe by historical events or geographical, political, or similar causes.

(5) "Clan" means a group of Native Americans related by blood line descent.

(6) "Commission" means the Commission on Indian Affairs in the Governor's Office of Community Initiatives.

(7) "Community" means a group of persons with common cultural ties and interests which differentiate members from nonmembers.

(8) "County" means the City of Baltimore or any of the 23 counties in the State.

(9) "Derived from a tribe" means a group having members who are descended from a tribe, band, or clan.

(10) "Descendant from a tribe" or "descendants from a tribe" means descended by blood line from a member or members of a tribe, band, or clan who:

(a) Are identified as Native American in historical records;

(b) Have family names identified by anthropologists or ethnohistorians as Native American in historical records; or

(c) Are identified by anthropologists or ethnohistorians in historical records through one or more terms recognized as synonymous with "Indian".

(11) "Historical" or "historically" means before 1790.

(12) "Indigenous to Maryland" means having inhabited one or more specific areas within the State before 1790.

(13) "Inhabit" means to dwell in a location.

(14) "Members" means those individuals who have been determined by a tribe, band, group, or clan to be its members, according to criteria established by the tribe, band, group, or clan.

(15) "Native American", "North American Indian", "American Indian", "Indian", or "aboriginal" means an individual or tribe, band, group, community, or clan that is, or whose members are, descended from a tribe that inhabited North America before European contact.

(16) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(17) "Recognition" or "formal recognition" means the process by which the Maryland Indian status of a Native American tribe, band, group, or clan is acknowledged under the Act and these regulations.

(18) "Secretary of the Interior" means the United States Secretary of the Interior.

(19) "State" or "Maryland" means the State of Maryland as described by the present physical boundaries of the State.

.04 Recognition Criteria.

The Commission may recommend that an eligible petitioning group be formally recognized under Regulation .08 of this chapter as a Maryland Indian tribe, band, group, or clan if the petitioning group establishes, taking into account the special circumstances of Native Americans indigenous to Maryland, that:

A. The group has been:

- (1) Identified as Native American from before 1790 until the present, and
- (2) Part of a continuous Native American community from before 1790 until the present;

B. The members of the group are descendants from a tribe that:

- (1) Existed before 1790,
- (2) Is indigenous to Maryland, and
- (3) Inhabited a specific area in Maryland before 1790; and

C. The membership of the group is composed principally of persons who are not members of any other acknowledged or recognized Native American tribe, band, group, or clan.

.05 Petition Requirements.

A. A petition for formal recognition shall include:

(1) The name and mailing address of the petitioning group and of the individual authorized to act as the petitioning group's agent for petition purposes;

(2) A statement that the petitioning group is a Native American tribe, band, group, or clan indigenous to Maryland;

(3) A statement that the petitioning group has verified with its members that the majority of them are not members of any other tribe, band, group, or clan acknowledged or recognized as American Indian by the Secretary of the Interior or any state;

(4) A copy of the petitioning group's rules governing the conduct of the petitioning group's affairs; and

(5) All documentation required under §B of this regulation.

B. To document that the petitioning group meets the criteria set forth in Regulation .04 of this chapter, the petitioning group:

(1) Shall submit:

(a) Documents showing, from before 1790 until the present:

(i) Longstanding relationships of the group with the government of Maryland or the United States, based on identification of the group or the group's members as Native American indigenous to Maryland;

(ii) Repeated dealings of the group with a county or other local government in a relationship, based on identification of the group or the group's members as Native American indigenous to Maryland;

(iii) Repeated dealings of the group with other tribes, bands, groups, or clans, or national Native American organizations, based on identification of the group as Native American indigenous to Maryland;

(iv) Identification of the group as Native American indigenous to Maryland by anthropologists, historians, genealogists, or other scholars; or

(v) Repeated identification of the group or the group's members as Native American indigenous to Maryland in official government records, church or school records, medical records, bibles and other family records, newspapers, books, photographs, or oral histories;

(b) Documents identifying the name of the group, or other term recognizing the group as Native American indigenous to Maryland, with an approximate location in Maryland from before 1790 until the present;

(c) A list of membership criteria established by the group;

(d) A statement of the procedures adopted by the group for applying the group's membership criteria; and

(e) A list of all individuals included on the group's current and previous membership rolls or known by the group to be eligible for membership, and the county in which each resides; and

(2) May submit any other evidence, which may include affidavits from tribal elders, tribal leaders, or tribal officials recognizing individuals as members of the group.

.10 Governor's Action on Recognition Recommendations.

A. If the Governor concurs with a recommendation for formal recognition by the Commission, the Governor shall propose an executive order to recognize formally the Maryland Indian status of the petitioning group.

B. If the Governor does not concur with a recommendation of the Commission, the Governor shall notify the Commission of the reasons and the Commission shall promptly notify the petitioning group and all persons requesting notice.

C. The Governor shall present the proposed executive order to the Joint Committee on Administrative, Executive, and Legislative Review for the proposed executive order's review. The proposed executive order shall take effect 30 days after submission to the Committee, unless the Governor earlier withdraws the proposed order.

D. The Commission shall promptly notify appropriate governmental agencies and national and state Native American organizations of the executive order.

.11 Recognition Advisory Committees.

A. A Recognition Advisory Committee shall be appointed by the Commission to review each petition for formal recognition of Maryland Indian status under these regulations.

B. Each Recognition Advisory Committee shall consist of five members who shall:

(1) To the maximum extent possible, be Native Americans; and

(2) Include:

(a) Two Native Americans nominated by the Commission from different tribes, bands, groups, or clans, other than the petitioning group, at least one of whom shall be descended from a tribe, band, group, or clan indigenous to Maryland, if available;

(b) One person with demonstrated expertise in genealogy, and in American Indian genealogy if available; and

(c) Two persons qualified in anthropology, ethnohistory, or related fields.

C. Each Recognition Advisory Committee shall review the petition for recognition and make recommendations to the Commission as required under Regulation .08 of this chapter.

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Code of Maryland Regulations (Last Updated: January 12, 2021)

Title 01. Executive Department

Subtitle 06. GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES

Chapter 01.06.01. Recognition of Maryland Indian Status

Sec. 01.06.01.01. General

Latest version.

A. Scope. State Government Article, §9.5-309, Annotated Code of Maryland, permits the Commission on Indian Affairs to establish a process by which a Native American tribe, band, group, or clan indigenous to Maryland can apply to the Commission for formal recognition of Maryland Indian status. State Government Article, §9.5-311, Annotated Code of Maryland, requires the Commission to adopt regulations and procedures necessary to carry out the provisions of State Government Article, §9.5-309, Annotated Code of Maryland. These regulations set forth procedures to carry out those provisions.

B. Objectives. For the benefit of Native American tribes, bands, groups, and clans indigenous to Maryland, the objectives of these regulations are to:

- (1) Clarify their legal status;
- (2) Acknowledge the contributions made by them to Maryland;
- (3) Recognize and assist them in their efforts to maintain their cultural identity and traditions; and
- (4) Provide access for them to federal and State programs available to State-recognized Indian tribes, bands, groups, and clans.



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» Title 01. Executive Department

» Subtitle 06. GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES

» Chapter 01.06.01. Recognition of Maryland Indian Status

Sec. 01.06.01.02. Definitions

Latest version.

A. In this chapter, the following terms have the meanings indicated:

B. Terms Defined.

(1) "Access to Public Records Act" means State Government Article, §§10-611-10-630, Annotated Code of Maryland.

(2) "Ancestor" means an individual from whom a person is descended.

(3) "Ancestry" means having an ancestor.

(4) "Band" means a sociopolitical division of a tribe, separated from the tribe by historical events or geographical, political, or similar causes.

(5) "Clan" means a group of Native Americans related by blood line descent.

(6) "Commission" means the Commission on Indian Affairs in the Governor's Office of Community Initiatives.

(7) "Community" means a group of persons with common cultural ties and interests which differentiate members from nonmembers.

(8) "County" means the City of Baltimore or any of the 23 counties in the State.

(9) "Derived from a tribe" means a group having members who are descended from a tribe, band, or clan.

(10) "Descendant from a tribe" or "descendants from a tribe" means descended by blood line from a member or members of a tribe, band, or clan who:

(a) Are identified as Native American in historical records;

(b) Have family names identified by anthropologists or ethnohistorians as Native American in historical records; or

(c) Are identified by anthropologists or ethnohistorians in historical records through one or more terms recognized as synonymous with "Indian".

(11) "Historical" or "historically" means before 1790.

(12) "Indigenous to Maryland" means having inhabited one or more specific areas within the State before 1790.

(13) "Inhabit" means to dwell in a location.

(14) "Members" means those individuals who have been determined by a tribe, band, group, or clan to be its members, according to criteria established by the tribe, band, group, or clan.

(15) "Native American", "North American Indian", "American Indian", "Indian", or "aboriginal" means an individual or tribe, band, group, community, or clan that is, or whose members are, descended from a tribe that inhabited North America before European contact.

(16) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(17) "Recognition" or "formal recognition" means the process by which the Maryland Indian status of a Native American tribe, band, group, or clan is acknowledged under the Act and these regulations.

(18) "Secretary of the Interior" means the United States Secretary of the Interior.

(19) "State" or "Maryland" means the State of Maryland as described by the present physical boundaries of the State.

(20) "Tribe" means a separate and distinct community of Native Americans generally related by blood, marriage, or adoption.



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Sec. 01.06.01.03. Eligible Petitioning Groups

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A group may apply to the Commission for formal recognition of its Maryland Indian status if the group is:

A. A Native American tribe, band, group, or clan; and

B. Indigenous to Maryland.



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Sec. 01.06.01.04. Recognition Criteria

Latest version.

The Commission may recommend that an eligible petitioning group be formally recognized under Regulation .08 of this chapter as a Maryland Indian tribe, band, group, or clan if the petitioning group establishes, taking into account the special circumstances of Native Americans indigenous to Maryland, that:

A. The group has been:

- (1) Identified as Native American from before 1790 until the present, and
- (2) Part of a continuous Native American community from before 1790 until the present;

B. The members of the group are descendants from a tribe that:

- (1) Existed before 1790,
- (2) Is indigenous to Maryland, and
- (3) Inhabited a specific area in Maryland before 1790; and

C. The membership of the group is composed principally of persons who are not members of any other acknowledged or recognized Native American tribe, band, group, or clan.



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Sec. 01.06.01.05. Petition Requirements

Latest version.

A. A petition for formal recognition shall include:

- (1) The name and mailing address of the petitioning group and of the individual authorized to act as the petitioning group's agent for petition purposes;
- (2) A statement that the petitioning group is a Native American tribe, band, group, or clan indigenous to Maryland;
- (3) A statement that the petitioning group has verified with its members that the majority of them are not members of any other tribe, band, group, or clan acknowledged or recognized as American Indian by the Secretary of the Interior or any state;
- (4) A copy of the petitioning group's rules governing the conduct of the petitioning group's affairs; and
- (5) All documentation required under §B of this regulation.

B. To document that the petitioning group meets the criteria set forth in Regulation .04 of this chapter, the petitioning group:

- (1) Shall submit:
 - (a) Documents showing, from before 1790 until the present:
 - (i) Longstanding relationships of the group with the government of Maryland or the United States, based on identification of the group or the group's members as Native American indigenous to Maryland;

- (ii) Repeated dealings of the group with a county or other local government in a relationship, based on identification of the group or the group's members as Native American indigenous to Maryland;
 - (iii) Repeated dealings of the group with other tribes, bands, groups, or clans, or national Native American organizations, based on identification of the group as Native American indigenous to Maryland;
 - (iv) Identification of the group as Native American indigenous to Maryland by anthropologists, historians, genealogists, or other scholars; or
 - (v) Repeated identification of the group or the group's members as Native American indigenous to Maryland in official government records, church or school records, medical records, bibles and other family records, newspapers, books, photographs, or oral histories;
- (b) Documents identifying the name of the group, or other term recognizing the group as Native American indigenous to Maryland, with an approximate location in Maryland from before 1790 until the present;
- (c) A list of membership criteria established by the group;
- (d) A statement of the procedures adopted by the group for applying the group's membership criteria; and
- (e) A list of all individuals included on the group's current and previous membership rolls or known by the group to be eligible for membership, and the county in which each resides; and
- (2) May submit any other evidence, which may include affidavits from tribal elders, tribal leaders, or tribal officials recognizing individuals as members of the group.



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Sec. 01.06.01.06. Inspection of Documentation

Latest version.

A. Documentation submitted in support of or in opposition to a petition may be inspected or copied by a person as provided by the Access to Public Records Act.

B. The Commission shall deny inspection or copying of any part of the documentation that contains sociological information relating to an individual, as provided in the Access to Public Records Act. For purposes of these regulations, sociological information includes:

- (1) Social security number;
- (2) Personal address;
- (3) Personal telephone number;
- (4) Medical or psychiatric history;
- (5) Educational history;
- (6) Work history;
- (7) Military service;
- (8) Financial information;
- (9) Religious preference, membership, and attendance;
- (10) Personal relationships, beliefs, and values;
- (11) Genealogical charts; and

(12) Family history other than evidence necessary to determine descendency from a Native American tribe, band, group, or clan indigenous to Maryland.

C. During review of a petition, the Commission shall retain the documentation at the Maryland State Archives or similar secure facility.

D. After final action on a petition, the Commission shall promptly return any original documents and personal memorabilia to the person who submitted the original documents and personal memorabilia. Copies of all documents and an inventory of all personal memorabilia submitted shall be retained by the Commission, except that:

(1) Copies may not be retained of those portions of the documents containing the information listed under §B of this regulation, and shall be returned to the person who submitted them; and

(2) Documents not subject to disclosure under the Access to Public Records Act shall be retained at the Maryland State Archives until disposition under State Government Article, §§10-637-10-642, Annotated Code of Maryland.



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Sec. 01.06.01.07. Petition Filing; Notices of Receipt; Final Submissions

Latest version.

A. Petitions shall be made on standard forms required by the Commission, verified as accurate by the petitioning group's agent, and accompanied by any required petition fee.

B. Within 10 days after receiving a petition, the Commission shall send written acknowledgement of receipt to the petitioning group.

C. Within 45 days after receiving a petition determined to be complete under Regulation .08 of this chapter, the Commission shall publish a notice of receipt in the Maryland Register and in a newspaper of general circulation in each Maryland county in which the petitioning group states in the petitioning group's petition that the petitioning group's members reside, including:

- (1) The name and address of the petitioning group;
- (2) The date of receipt of the petition;
- (3) The time and place that a copy of the petition, and any supporting documentation not prohibited from disclosure under Regulation .06 of this chapter, may be inspected; and
- (4) The mailing address and deadline 60 days or more in the future for submitting factual or legal arguments in support of or in opposition to the petition.

D. The Commission shall mail a copy of the notice of receipt required under §C of this regulation to a person requesting a copy in writing.

E. After the deadline for receipt of submissions in support of or in opposition to a petition, the Commission shall provide a copy of all submissions to the petitioning group. The petitioning group shall submit any response within the following 30 days.

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Sec. 01.06.01.08. Processing Petitions

Latest version.

A. The Commission shall accept for review all complete petitions. A petition may not be considered complete until the Commission has received all information requested in the petition form or required by these regulations.

B. Within 30 days after a petition is received, the Commission shall notify the petitioning group in writing that the petition is:

(1) Complete; or

(2) Incomplete and specific additional information is required to complete the petition.

C. If the petitioning group fails to complete the petition within 1 year after notice is mailed to the petitioning group that the petition is not complete, the petition shall be deemed withdrawn, and the Commission shall notify the petitioning group. If the petitioning group during the 1-year period requests additional time to complete the petition and provides reasonable justification, the Commission may grant one additional period of up to 1 year for the petitioning group to complete the petition.

D. Within 15 days after the Commission determines the petition is complete under §B of this regulation, the Commission shall refer the petition to the Recognition Advisory Committee established under Regulation .11 of this chapter.

E. Subject to availability of funds necessary to compensate Recognition Advisory Committee members, within 25 days after referral under §D of this regulation, the Recognition Advisory Committee shall review the documentation submitted for the petition and may, through the Commission, request the petitioning group to submit

any specific additional documentation necessary to determine whether a petitioning group meets the criteria set forth in Regulation .04 of this chapter.

F. Within 30 days after a request for additional documentation under §E of this regulation is mailed or delivered to the petitioning group, the petitioning group shall submit to the Commission all additional documentation requested.

G. If the documentation requested under §F of this regulation is not submitted, the Commission shall promptly return the petition to the petitioning group with notice that the petition has been considered withdrawn. If the Commission determines that all documentation requested has been submitted, the Commission staff shall promptly notify the petitioning group.

H. Within 180 days after the Commission notifies the petitioning group that all documentation requested has been received, the Recognition Advisory Committee shall complete review of the petition and advise the Commission whether the petitioning group meets the recognition criteria set forth in Regulation .04 of this chapter.

I. In advising the Commission whether a petition meets the recognition criteria set forth in Regulation .04 of this chapter, the Recognition Advisory Committee shall:

(1) Consider the petition, all submissions in support of or in opposition to the petition, and the petitioning group's written response, if any; and

(2) Use to the maximum extent practicable the information and sources available to it, including individuals not on the Recognition Advisory Committee who have knowledge or experience with federal or other State Indian tribe recognition procedures or an understanding of the history of Native Americans indigenous to Maryland.

J. A Recognition Advisory Committee member or a Commissioner may not participate in any way in deliberations with respect to a petition made by a petitioning group of which a Recognition Advisory Committee member or Commissioner is a member.

K. Within 30 days after receiving the Recognition Advisory Committee's advice, the Commission shall:

(1) Review the Recognition Advisory Committee's advice and, subject to § L of this regulation, determine whether the petition meets the criteria set forth in Regulation .04 of this chapter; and

(2) Notify the petitioning group and all other persons requesting notice of the Commission's determination by first class mail.

L. If the Commission determines that the information or documentation submitted in support of the petition is not adequate to establish that the petitioning group meets the criteria set forth in Regulation .04 of this chapter, then:

(1) Within 30 days of the determination, the Commission may request the petitioning group to submit specific additional information or documentation within 60 days;

(2) Within 30 days after receipt of the additional information or documentation, the Commission shall follow the procedures under § K of this regulation.

M. Subject to Regulation .09 of this chapter, if the Commission determines that the petitioning group meets the criteria set forth in Regulation .04 of this chapter, the Commission shall submit to the Governor a recommendation, together with its determinations, that the petitioning group be formally recognized as a Maryland Indian tribe, band, group, or clan.



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Sec. 01.06.01.09. Reconsideration of Recognition Recommendations

Latest version.

A. Within 30 days after the notice of Commission determinations is mailed under Regulation .08K(2) of this chapter, the petitioning group or any person or group that previously submitted arguments in support of or in opposition to the petition may, in writing, request that the Commission review the determinations.

B. Within 30 days after receiving a request for review, the Commission shall appoint a three-member panel to review the Commission's determinations and all evidence submitted in support of or in opposition to the petition. The panel shall include at least one member of the Commission and one member of the Recognition Advisory Committee, who together shall nominate the third member for the Commission's appointment.

C. The panel shall report its findings and recommendations to the Commission within 60 days after appointment. If the Commission concludes that the Commission adequately considered the evidence submitted, the Commission shall transmit any panel findings and recommendations and any Commission recommendation for formal recognition to the Governor together with the Commission's determinations, and the Commission promptly shall notify the petitioning group and all persons requesting notice.

D. If the panel concludes that the Commission failed to adequately consider any evidence submitted and that the evidence if adequately considered is likely to reverse the Commission's determinations, the Commission shall adequately consider the evidence and reconsider the Commission's determinations.

E. After Commission reconsideration, the Commission shall transmit any Commission recommendation for formal recognition to the Governor. The transmittal shall include the Commission's final determinations. The Commission shall promptly notify the petitioning group, and all persons requesting notice, of the Commission's recommendation and final determinations.

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Sec. 01.06.01.10. Governor's Action on Recognition Recommendations

Latest version.

- A. If the Governor concurs with a recommendation for formal recognition by the Commission, the Governor shall propose an executive order to recognize formally the Maryland Indian status of the petitioning group.
- B. If the Governor does not concur with a recommendation of the Commission, the Governor shall notify the Commission of the reasons and the Commission shall promptly notify the petitioning group and all persons requesting notice.
- C. The Governor shall present the proposed executive order to the Joint Committee on Administrative, Executive, and Legislative Review for the proposed executive order's review. The proposed executive order shall take effect 30 days after submission to the Committee, unless the Governor earlier withdraws the proposed order.
- D. The Commission shall promptly notify appropriate governmental agencies and national and state Native American organizations of the executive order.



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Sec. 01.06.01.11. Recognition Advisory Committees

Latest version.

A. A Recognition Advisory Committee shall be appointed by the Commission to review each petition for formal recognition of Maryland Indian status under these regulations.

B. Each Recognition Advisory Committee shall consist of five members who shall:

(1) To the maximum extent possible, be Native Americans; and

(2) Include:

(a) Two Native Americans nominated by the Commission from different tribes, bands, groups, or clans, other than the petitioning group, at least one of whom shall be descended from a tribe, band, group, or clan indigenous to Maryland, if available;

(b) One person with demonstrated expertise in genealogy, and in American Indian genealogy if available; and

(c) Two persons qualified in anthropology, ethnohistory, or related fields.

C. Each Recognition Advisory Committee shall review the petition for recognition and make recommendations to the Commission as required under Regulation .08 of this chapter.



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Sec. 01.06.01.12. Effect of Recognition

Latest version.

An executive order issued under these regulations may not:

- A. Create any rights of ownership or other rights to land;
- B. Create any benefits or entitlements of any kind;
- C. Impair valid existing rights, benefits, or entitlements of Native Americans residing in the State; or
- D. Impair existing judicial rulings of the State regarding Native Americans indigenous to the State.



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Sec. 01.06.01.13. General Provisions

Latest version.

A. Administration.

(1) Upon request of the petitioning group, the Commission may extend any time period established by these regulations for processing of the petitioning group's petition.

(2) The Commission from time to time may establish operational handbooks or manuals governing matters relating to the administration of these regulations, including descriptive statements of procedures which do not directly affect the rights of the public or procedures available to the public.

B. Written Requirements. All requests, notices, notifications, consents, and approvals required under these regulations shall be made in writing.

C. Waiver. The Commission may waive or vary any provisions of these regulations if:

(1) The waiver or variance is not inconsistent with the authorizing provisions of State Government Article, Title 9.5, Subtitle 3, Annotated Code of Maryland;

(2) In the written determination of the Commission, the application of the regulations in a specific case or in an emergency situation is inequitable or contrary to the purposes of State Government Article, Title 9.5, Subtitle 3, Annotated Code of Maryland; and

(3) The Office of the Attorney General approves any waiver or variance for form and legal sufficiency.

D. No Private Cause of Action. Action or failure to take action by the Commission or the Governor under State Government Article, Title 9.5, Subtitle 3, Annotated Code of Maryland, or these regulations may not create a private cause of action under the laws of the State.

E. False Statements.

(1) In any matter relating to a petition under State Government Article, Title 9.5, Subtitle 3, Annotated Code of Maryland, or these regulations, a person is guilty of a misdemeanor if that person:

(a) Knowingly and willfully falsifies or conceals a material fact, by any trick, scheme, or device;

(b) Makes any false, fictitious, or fraudulent statement or representation; or

(c) Makes or uses any false writing or document knowing the writing or document contains a false, fictitious, or fraudulent statement or entry.

(2) Except as otherwise provided by law, a person who violates §E(1) of this regulation is subject to a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both.



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(2) Except as otherwise provided by law, a person who violates §E(1) of this regulation is subject to a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both.

Part I ADMINISTRATION OF THE GOVERNMENT

Title II EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH

Chapter 6A EXECUTIVE OFFICES

Section 8A COMMISSION ON INDIAN AFFAIRS; MEMBERSHIP; FUNCTIONS

Section 8A. There shall be in the department of housing and community development a commission on Indian affairs, consisting of seven members who shall be appointed by the governor. All of the members shall be of American Indian descent and shall represent the major tribes of American Indian population located within the commonwealth. In the year nineteen hundred and ninety-three, three members shall be appointed for a term of three years, two members shall be appointed for a term of two years and two members shall be appointed for a term of one year. Thereafter, all appointments shall be for a three-year term.

Said commission shall meet at least four times annually, but may meet as often as it deems necessary for the proper conduct of its affairs, and shall elect from its membership a chairman and such other officers as may be required, each to serve for a term of one year.

Said commission shall investigate problems common to American Indians and persons of American Indian descent who are residents of the commonwealth. It shall assist tribal councils, Indian organizations and individuals in their relationship with agencies of state and local government, assist with social services, education, employment opportunities, health, housing problems, civil rights, legal aid, treaties, taking of a census of American Indian residents, and any other rights or services concerning American Indian residents of the commonwealth.

Said commission may make recommendations to the director of housing and community development concerning programs and policies that will best serve the interest of the American Indian residents of the commonwealth. It shall make an annual report of its activities to said director and shall file a copy thereof with the clerks of the senate and house of representatives on or before the last Wednesday in January of each year.

Said commission shall provide for the burial expenses, up to three hundred dollars, for the remains of any person whose previously unknown grave has been disturbed, forcing its relocation, and whose identity has been determined by the state archaeologist to be that of an American Indian.

Part 15. North Carolina State Commission of Indian Affairs.

§ 143B-404. North Carolina State Commission of Indian Affairs – creation; name.

There is hereby created and established the North Carolina State Commission of Indian Affairs. The Commission shall be administered under the direction and supervision of the Department of Administration pursuant to G.S. 143A-6(b) and (c). (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189.)

§ 143B-405. North Carolina State Commission of Indian Affairs – purposes for creation.

The purposes of the Commission shall be as follows:

- (1) To deal fairly and effectively with Indian affairs.
- (2) To bring local, State, and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of North Carolina.
- (3) To provide aid and protection for Indians as needs are demonstrated; to prevent undue hardships.
- (4) To hold land in trust for the benefit of State-recognized Indian tribes. This subdivision shall not apply to federally recognized Indian tribes.
- (5) To assist Indian communities in social and economic development.
- (6) To promote recognition of and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 2001-344, s. 1; 2006-264, s. 15.)

§ 143B-406. North Carolina State Commission of Indian Affairs – duties; use of funds.

- (a) The Commission shall have the following duties:
 - (1) To study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs.
 - (2) To investigate relief needs of Indians of North Carolina and to provide technical assistance in the preparation of plans for the alleviation of such needs.
 - (3) To confer with appropriate officials of local, State and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in North Carolina.

- (4) To cooperate with and secure the assistance of the local, State and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the State Commission of Indian Affairs secure the full benefit of such programs.
- (5) To act as trustee for any interest in real property that may be transferred to the Commission for the benefit of State-recognized Indian tribes in accordance with a trust agreement approved by the Commission. The Commission shall not hold any interest in real property for the benefit of federally recognized Indian tribes.
- (6) To review all proposed or pending State legislation and amendments to existing State legislation affecting Indians in North Carolina.
- (7) To conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the Commission.
- (8) To study the existing status of recognition of all Indian groups, tribes and communities presently existing in the State of North Carolina.
- (9) To establish appropriate procedures to provide for legal recognition by the State of presently unrecognized groups.
- (10) To provide for official State recognition by the Commission of such groups.
- (11) To initiate procedures for their recognition by the federal government.

(b) The Commission may adopt rules to implement the provisions of subdivision (a)(5) of this section. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 2001-344, s. 2.)

§ 143B-407. North Carolina State Commission of Indian Affairs – membership; term of office; chairman; compensation.

(a) The State Commission of Indian Affairs shall consist of two persons appointed by the General Assembly, the Secretary of Health and Human Services, the Director of the State Employment Security Commission, the Secretary of Administration, the Secretary of Environment and Natural Resources, the Commissioner of Labor or their designees and 21 representatives of the Indian community. These Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa Saponi of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Meherrin of Hertford County; the Waccamaw-Siouan from Columbus and Bladen Counties; the Sappony; the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties, and the Native Americans located in Cumberland, Guilford, Johnston, Mecklenburg, Orange, and Wake Counties. The

Coharie shall have two members; the Eastern Band of Cherokees, two; the Haliwa Saponi, two; the Lumbees, three; the Meherrin, one; the Waccamaw-Siouan, two; the Sappony, one; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, two; the Occaneechi Band of the Saponi Nation, one, the Triangle Native American Society, one. Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms except that at the first election of Commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. The initial appointment from the Indians of Person County shall expire on June 30, 1999. The initial appointment from the Triangle Native American Society shall expire June 30, 2003. The initial appointment of the Occaneechi Band of the Saponi Nation shall expire June 30, 2005. Thereafter, all Commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the Commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the Commission from among the Indian members of the Commission, subject to ratification by the full Commission. The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years.

(c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1. Indian members of the commission shall be compensated at the rate specified in G.S. 138-5. (1977, c. 771, s. 4; c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1981, c. 47, s. 5; 1981 (Reg. Sess., 1982), c. 1191, ss. 74, 76; 1989, c. 727, s. 218(149); 1991, c. 467, s. 1; 1995, c. 490, s. 27; 1997-147, s. 2; 1997-293, s. 2; 1997-443, ss. 11A.118(a), 11A.119(a); 2001-318, s. 1; 2002-126, s. 19.1A(a); 2003-87, s. 2.)

§ 143B-408. North Carolina State Commission of Indian Affairs – meetings; quorum; proxy vote.

(a) The Commission shall meet quarterly, and at any other such time that it shall deem necessary. Meetings may be called by the chairman or by a petition signed by a majority of the members of the Commission. Ten days' notice shall be given in writing prior to the meeting date.

(b) Simple majority of the Indian members of the Commission must be present to constitute a quorum.

(c) Proxy vote shall not be permitted. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189.)

§ 143B-409. North Carolina State Commission of Indian Affairs – reports.

The Commission shall prepare a written annual report giving an account of its proceedings, transactions, findings, and recommendations. This report shall be submitted to the Governor and the legislature. The report will become a matter of public record and will be maintained in the State Historical Archives. It may also be furnished to such other persons or agencies as the Commission may deem proper. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189.)

§ 143B-410. North Carolina State Commission of Indian Affairs – fiscal records; clerical staff.

Fiscal records shall be kept by the Secretary of Administration. The audit report will become a part of the annual report and will be submitted in accordance with the regulations governing preparation and submission of the annual report. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1983, c. 913, s. 41.)

§ 143B-411. North Carolina State Commission of Indian Affairs – executive director; employees.

The Commission may, subject to legislative or other funds that would accrue to the Commission, employ an executive director to carry out the day-to-day responsibilities and business of the Commission. The executive director shall serve at the pleasure of the Commission. The executive director, also subject to legislative or other funds that would accrue to the Commission, may hire additional staff and consultants to assist in the discharge of his responsibilities, as determined by the Commission. The executive director shall not be a member of the Commission, and shall be of Indian descent. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1991, c. 88.)

Chapter 71A.

Indians.

§ 71A-1. Cherokee Indians of Robeson County; rights and privileges.

The persons residing in Robeson, Richmond, and Sampson counties, who have heretofore been known as "Croatan Indians" or "Indians of Robeson County," together with their descendants, shall hereafter be known and designated as "Cherokee Indians of Robeson County," and by that name shall be entitled to all the rights and privileges heretofore or hereafter conferred, by any law or laws of the State of North Carolina, upon the Indians heretofore known as the "Croatan Indians" or "Indians of Robeson County." In all laws enacted by the General Assembly of North Carolina relating to said Indians subsequent to the enactment of said Chapter 51 of the Laws of 1885, the words "Croatan Indians" and "Indians of Robeson County" are stricken out and the words "Cherokee Indians of Robeson County" inserted in lieu thereof. (1885, c. 51, s. 2; Rev., s. 4168; 1911, c. 215; P.L. 1911, c. 263; 1913, c. 123; C.S., s. 6257; 1977, 2nd Sess., c. 1193, s. 1.)

§ 71A-2. Chapter not applicable to certain bands of Cherokees.

Neither this Chapter nor any other act relating to said "Cherokee Indians of Robeson County" shall be construed so as to impose on said Indians any powers, privileges, rights, or immunities, or any limitations on their power to contract, heretofore enacted with reference to the Eastern Band of Cherokee Indians residing in Cherokee, Graham, Jackson, Swain and other adjoining counties in North Carolina, or any other band or tribe of Cherokee Indians other than those now residing, or who have since the Revolutionary War resided, in Robeson County, nor shall said "Cherokee Indians of Robeson County," as herein designated, be subject to the limitations provided in the Chapter Contracts Requiring Writing, G.S. 22-3, entitled Contracts with Cherokee Indians. (1947, c. 978, s. 1; 1977, 2nd Sess., c. 1193, s. 1.)

§ 71A-3. Lumbee Tribe of North Carolina; rights, privileges, immunities, obligations and duties.

The Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American Colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, who have previously been known as "Croatan Indians," "Indians of Robeson County," and "Cherokee Indians of Robeson County," shall, from and after April 20, 1953, be designated and officially recognized as Lumbee Tribe of North Carolina and shall continue to enjoy all rights, privileges and immunities as an American Indian Tribe with a recognized tribal governing body carrying out and exercising substantial governmental duties and powers similar to the State, being recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (1953, c. 874; 1977, 2nd Sess., c. 1193, s. 1; 2003-54, s. 1; 2019-162, s. 1.)

§ 71A-4. Waccamaw Siouan Tribe of North Carolina; rights, privileges, immunities, obligations and duties.

The Indians now living in Bladen and Columbus and adjoining counties of North Carolina, originally found by the first white settlers in the region of the Cape Fear River, Lake Waccamaw, and the Waccamaw Indians, a Siouan Tribe which inhabited the areas surrounding the Waccamaw, Pee Dee, and Lumber Rivers in North and South Carolina, shall, from and after July 20, 1971, be designated and officially recognized as the Waccamaw Siouan Tribe of North Carolina and shall continue to enjoy all their rights, privileges and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law. (1977, 2nd Sess., c. 1193, s. 1.)

§ 71A-5. Haliwa-Saponi Indian Tribe of North Carolina; rights, privileges, immunities, obligations and duties.

The Indians now residing in Halifax, Warren and adjoining counties of North Carolina, originally found by the first permanent white settlers on the Roanoke River in Halifax and Warren Counties, and who descend from the Saponi, Nansemond, and other tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after April 15, 1965, be designated and officially recognized as the Haliwa-Saponi Indian Tribe, and they shall continue to enjoy all their rights, privileges and immunities as an American Indian Tribe with a recognized tribal governing body carrying out and exercising substantial governmental duties and powers similar to the State, being recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (1965, c. 254; 1977, 2nd Sess., c. 1193, s. 1; 1997-293, s. 1; 2006-111, s. 1.)

§ 71A-6. Coharie Tribe of North Carolina; rights, privileges, immunities, obligations and duties.

The Indians now living in Harnett and Sampson and adjoining counties of North Carolina, originally found by the first white settlers on the Coharie River in Sampson County, and claiming descent from certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after July 20, 1971, be designated and officially recognized as the Coharie Tribe of North Carolina and shall continue to enjoy all their rights, privileges and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law. (1977, 2nd Sess., c. 1193, s. 1.)

§ 71A-7. The Sappony; rights, privileges, immunities, obligations, and duties.

The Indian Tribe now residing in Person County, officially recognized as the Indians of Person County by Chapter 22 of the Public-Local Laws of 1913, who are descendants of those Indians living in Person County for whom the High Plains Indian School was established, shall, from and after February 3, 1913, be designated and officially recognized as Sappony, and shall continue to enjoy all their rights, privileges, and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law. (1997-147, s. 1; 2003-87, s. 1.)

§ 71A-7.1. Meherrin Tribe of North Carolina; rights, privileges, immunities, obligations and duties.

The Indians now residing in small communities in Hertford, Bertie, Gates, and Northampton Counties, who in 1726 were granted reservational lands at the mouth of the Meherrin River in the vicinity of present-day Parker's Ferry near Winton in Hertford County, and who are of the same linguistic stock as the Cherokee, Tuscarora, and other tribes of the Iroquois Confederacy of New York and Canada, shall, from and after July 20, 1971, be designated and officially recognized as the Meherrin Tribe of North Carolina, and shall continue to enjoy all their rights, privileges, and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law. (2003-54, s. 2.)

§ 71A-7.2. Occaneechi Band of Saponi Nation in North Carolina; rights, privileges, immunities, obligations and duties.

The Indians now living primarily in the old settlement of Little Texas in Pleasant Grove Township, Alamance County, who are lineal descendants of the Saponi and related Indians who occupied the Piedmont of North Carolina and Virginia in precontact times, and specifically of those Saponi and related Indians who formally became tributary to Virginia under the Treaties of Middle Plantation in 1677 and 1680, and who under the subsequent treaty of 1713 with the Colony of Virginia agreed to join together as a single community, shall, from and after July 20, 1971, be designated and officially recognized as the Occaneechi Band of the Saponi Nation of North Carolina, and shall continue to enjoy all their rights, privileges, and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law. (2003-54, s. 2.)

§ 71A-8. Authorization for federally recognized Indian tribes to conduct games.

In recognition of the governmental relationship between the State, federally recognized Indian tribes and the United States, a federally recognized Indian tribe may conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497, that are in accordance with a valid Tribal-State compact executed by the Governor pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the Indian Gaming Regulatory Act, and such games shall not be unlawful or against the public policy of the State if the State permits such gaming for any purpose by any person, organization, or entity. (2001-513, s. 29(b).)

SECTION .0200 – LEGAL RECOGNITION OF AMERICAN INDIAN GROUPS

01 NCAC 15 .0201 AUTHORIZATION

The rules in this Section, establish procedures to provide for the legal recognition by the State of presently unrecognized American Indian groups.

History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

01 NCAC 15 .0202 DEFINITIONS

When used in this Section the following definitions apply:

- (1) "AMERICAN INDIAN TRIBE" means a population of Indian people all related to one another by blood or kinship, tracing their heritage to indigenous Indian tribes, and recognized by the State or federal government.
- (2) "COMMISSION" means the North Carolina Commission of Indian Affairs.
- (3) "GROUP" means the members of a community, inter-related by blood, and listed on submitted membership rolls as defined in Item (5) of this Rule, and petitioning the state for official recognition as an American Indian tribe.
- (4) "INDIGENOUS" means native to North Carolina.
- (5) "MEMBERSHIP ROLL" means a list of those individuals who have been determined by a group to meet the group's membership requirements. The membership roll shall list the names, addresses, date of birth, names of both parents (including mothers' maiden names), and telephone numbers of the people and relate each one to their kinship ties. These kinship ties shall be consistent with information documented in genealogy charts submitted in accordance with Rule .0212(2) of this Section.
- (6) "NOTICE OF INTENT TO PETITION" means a letter without supporting petition-related documents from a group requesting official recognition by the State of North Carolina.
- (7) "PETITION" means the presented documents and arguments made by a group to substantiate its claims that it satisfies the criteria identified in Rules .0203 and .0212 of this Section.
- (8) "PETITIONER" means any group that has submitted a Notice of Intent to Petition to the Commission requesting State recognition as an American Indian tribe.
- (9) "SPLINTER GROUP" means a political faction, community, or group of any character that separates or has separated from the main body of a state or federally recognized American Indian tribe, and has not functioned throughout history as an autonomous American Indian tribe.
- (10) "STATE" means the State of North Carolina.

*History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. February 1, 2006; April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

01 NCAC 15 .0203 GROUPS ELIGIBLE FOR PETITIONING PROCESS

- (a) Only American Indian groups located in North Carolina who can trace their historic origins to indigenous American Indian tribes prior to 1790 are eligible to petition or to be considered for State recognition as an American Indian tribe.
- (b) Each group seeking recognition shall document their organizational status and structure. The formal status and type of organizational structure of the petitioning group shall not be a factor in the recognition process.

*History Note: Authority G.S. 143B-406;
 Eff. November 1, 1976;
 Amended Eff. February 1, 2006; April 1, 1999;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3,
 2017.*

01 NCAC 15 .0204 GROUPS INELIGIBLE FOR RECOGNITION

The following groups and entities are ineligible to petition for official State recognition as American Indian tribes:

- (1) Splinter Groups – as defined in Rule .0202 of this Section.
- (2) Previously denied petition groups or entities - Groups, or successors in interest of groups, that have petitioned for and been denied or refused recognition as an American Indian tribe under the State's administrative rules for State recognition as an American Indian tribe, unless the group has new evidence to justify the petition.
- (3) Parties to certain actions – Any group that:
 - (a) in any action in State or federal court of competent jurisdiction to which the group was a party attempted to establish its status as an American Indian tribe or successor in interest to an American Indian tribe; and
 - (b) was determined by that court:
 - (i) not to be an American Indian tribe; or
 - (ii) not to be a successor in interest to an American Indian tribe; or
 - (iii) to be incapable of establishing one or more of the criteria set forth in Rules .0203 or .0212 of this Section.

*History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. February 1, 2006; April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

01 NCAC 15 .0205 COMMISSION ASSISTANCE TO PETITIONER

- (a) When a group has identified itself as an American Indian group, it shall request technical assistance from the Commission. The Commission shall explain the administrative processes for the legal recognition of an American Indian group.
- (b) The Commission of Indian Affairs assistance to the Petitioner shall be limited to an explanation of the procedure and technical advice.

*History Note: Authority G.S. 143B-406;
 Eff. November 1, 1976;
 Amended Eff. February 1, 2006;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3,
 2017.*

01 NCAC 15 .0207 NOTICE OF INTENT TO PETITION FOR RECOGNITION

(a) A petitioning American Indian group shall file a Notice of Intent to Petition (hereinafter referred to as the "Notice of Intent") with the Commission's Recognition Committee. The Commission shall acknowledge receipt of the Petitioner's Notice of Intent.

(b) The Notice of Intent shall be produced, dated and shall be signed by each member of the governing body of the petitioning American Indian group, and shall include the group's name, address, number of members, geographic location of the petitioning group's members, historic origin and existing recognition.

*History Note: Authority G.S. 143B-406;
Eff. February 11, 1980;
Amended Eff. February 1, 2006; April 1, 1999; August 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

01 NCAC 15 .0212**CRITERIA FOR RECOGNITION AS AN AMERICAN INDIAN TRIBE**

In deciding whether to grant recognition to petitioner, the Commission shall proceed as follows:

- (1) The Petitioner shall demonstrate continuous American Indian identity on a historic basis in satisfying each of these criteria. Documents that shall be used to demonstrate the group's American Indian identity shall include, family bible accounts, baptismal records, and any other material that can substantiate the petitioning group's historic and continuous identification as an American Indian entity. For periods of time where this identification cannot be documented, the Petitioner shall submit a narrative to explain the lack of continuous American Indian identification.
- (2) The criteria to be used in the decision whether to extend State recognition as an American Indian tribe are listed below in Subitems (a) through (h).
 - (a) Traditional North Carolina American Indian names, as they relate to the petitioning group. Surnames among the petitioning group that have been commonly identified as being American Indian since 1790 in the Petitioner's local geographic area shall be considered to be traditional North Carolina American Indian names;
 - (b) Kinship relationships with other recognized American Indian tribes. Relationships with other recognized American Indian tribes shall be based on the petitioner's identification as an American Indian group or community, and shall be evidenced by historic blood and marriage kinship ties and communal interaction of spiritual, educational, and social institutions; or other cultural relationships between known (recognized) tribal communities and the petitioner's community;
 - (c) Official records, which may include, birth, church, school, military, medical, local or county government records, or other official records identifying the group as American Indian. Vital records shall also be used in assisting the group's documentation of American Indian identity.
 - (d) State or federal documents identifying the group as American Indian. Any instance of historic government-to-government relationships between the Petitioner and federal or state governments shall be evidenced;
 - (e) Anthropological, historical, or genealogical documents identifying the group as American Indian and demonstrating the group's American Indian ancestry;
 - (f) Identification from State or federally recognized American Indian tribes attesting to the petitioning group's identification as American Indian, based on both the historic and current relationships existing between the tribe and the petitioning group.
 - (g) Any other documented traditions, customs, legends, etc., that are uniquely American Indian and signify the petitioning group's American Indian heritage;
 - (h) Participation in grants from sources or programs designated as for American Indian only.
- (3) Five of the recognition criteria listed in Item (2) of this Rule must be satisfactorily met to achieve state recognition.

History Note:

Authority G.S. 143B-406

Eff. February 11, 1980;

Amended Eff. February 1, 2006;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

South Carolina Legislature

South Carolina Law > Code of Laws > Title 1

South Carolina Code of Laws Unannotated

Title 1 - Administration of the Government

CHAPTER 31

State Commission for Minority Affairs

SECTION 1-31-10. Commission for Minority Affairs created; composition; majority to be African-American; term of office; filling vacancies.

There is created a State Commission for Minority Affairs consisting of nine members and the Governor ex officio. The Governor must appoint one person from each of the congressional districts of the State and two persons from the State at large upon the advice and consent of the Senate. The Governor shall designate the chairman. The members serve for a term of four years and until their successors are appointed and qualify. A vacancy must be filled in the same manner as original appointment for the remainder of the unexpired term. A majority of the members of the commission must be African American.

HISTORY: 1993 Act No. 164, Part II, Section 110; 2003 Act No. 85, Section 3; 2012 Act No. 279, Section 3, eff June 26, 2012.

Editor's Note

2012 Act No. 279, Section 33, provides as follows:

"Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy."

Effect of Amendment

The 2012 amendment deleted "six" before "congressional districts" and substituted "two persons from the State" for "three persons from the State".

SECTION 1-31-20. Commission to meet at least quarterly; purpose.

The commission must meet quarterly and at other times as the chairman determines necessary to study the causes and effects of the socio-economic deprivation of minorities in the State and to implement programs necessary to address inequities confronting minorities in the State.

HISTORY: 1993 Act No. 164, Part II, Section 110; 2001 Act No. 26, Section 1.

SECTION 1-31-30. Hiring of executive director and other personnel; appropriations.

The commission is authorized to hire an executive director and other personnel necessary to carry out its duties and functions under this chapter. The General Assembly shall provide for the funds in the annual appropriations act.

HISTORY: 1993 Act No. 164, Part II, Section 110.

SECTION 1-31-40. Powers and duties of Commission.

(A) The commission shall:

- (1) provide the minority community consisting of African Americans, Native American Indians, Hispanics/Latinos, Asians, and others with a single point of contact for statistical and technical assistance in the areas of research and planning for a greater economic future;
- (2) work with minority officials on the state, county, and local levels of government in disseminating statistical data and its impact on their constituencies;
- (3) provide for publication of a statewide statistical abstract on minority affairs;
- (4) provide statistical analyses for members of the General Assembly on the state of minority communities as the State experiences economic growth and changes;
- (5) provide the minority community with assistance and information on Voting Rights Act submissions in the State, as well as other related areas of concern to the minority community;
- (6) determine, approve, and acknowledge by certification state recognition for Native American Indian entities; however, notwithstanding their state certification, the tribes have no power or authority to take any action which would establish, advance, or promote any form of gambling in this State;
- (7) establish advisory committees representative of minority groups, as the commission considers appropriate to advise the commission;
- (8) act as liaison with the business community to provide programs and opportunities to fulfill its duties under this chapter;
- (9) seek federal and other funding on behalf of the State of South Carolina for the express purpose of implementing various programs and services for African Americans, Native American Indians, Hispanics/Latinos, Asians, and other minority groups;
- (10) promulgate regulations as may be necessary to carry out the provisions of this article including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina;
- (11) establish and maintain a twenty-four hour toll free telephone number and electronic website in accordance with Section 8-30-10; and
- (12) perform other duties necessary to implement programs.

(B) The commission may delegate these powers and duties as necessary.

(C) Nothing in this chapter recognizes, creates, extends, or forms the basis of any right or claim of interest in land or real estate in this State for any Native American tribe which is recognized by the State.

HISTORY: 1993 Act No. 164, Part II, Section 110; 2003 Act No. 85, Section 4; 2008 Act No. 280, Section 2, eff June 4, 2008.

Effect of Amendment

The 2008 amendment added subparagraph (A)(11) relating to a toll free telephone number and electronic website, and redesignated subparagraph (A)(11) as (A)(12).

SECTION 1-31-50. Promulgation of regulations to carry out duties.

The commission may promulgate those regulations necessary to carry out its duties under this chapter.

HISTORY: 1993 Act No. 164, Part II, Section 110.

SECTION 1-31-60. Native American Indian Groups; existing recognition; repeal of regulations regarding recognition.

(A) Notwithstanding any other provision of law, upon and after the effective date of this statute:

(1) any Native American Indian Group that on the effective date of this section has been recognized by the Commission for Minority Affairs through its regulatory process remains and continues to be:

- (a) recognized as a Native American Indian Group; and
- (b) eligible to exercise the privileges and obligations authorized by that designation;

(2) the Commission for Minority Affairs must:

- (a) eliminate the eligibility for any additional Native American Indian Groups to receive official recognized status in the State; and
 - (b) cease to recognize any additional entities as Native American Indian Groups; and
- (3) any regulations providing for recognition as a Native American Indian Group are repealed.

(B) The Commission for Minority Affairs must revise any regulations to:

- (a) eliminate any recognition procedure as a Native American Indian Group; and
- (b) provide for the privileges and obligations a Native American Indian Group that continues to be recognized is authorized to exercise.

HISTORY: 2018 Act No. 163 (H.3177), Section 1, eff May 3, 2018.

CHAPTER 139

Commission for Minority Affairs

Editor's Note

1976 Code § 1-31-60, added by 2018 Act No. 163, eff May 3, 2018, provides that recognized Native American Indian groups continue to be recognized and eligible to exercise privileges and obligations authorized by that designation, that the Commission for Minority Affairs cease to recognize additional Native American Indian Groups, that any regulations providing for recognition as a Native American Indian Group are repealed, and that the commission revise its regulations to provide for the privileges and obligations of Native American Indian Groups that continue to be recognized.

ARTICLE I

STATE RECOGNITION OF NATIVE AMERICAN INDIAN ENTITIES

(Statutory Authority: S.C. Code § 1-31-40(A)(10))

139-100. Purpose.

Section 1-31-40(A)(10), South Carolina Code of Laws provides that "The Commission shall promulgate regulations as may be necessary regarding State Recognition of Native American Indian entities in the State of South Carolina."

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-101. Scope.

These rules and regulations shall be applicable to all entities seeking Native American Indian State Recognition as a:

- A. Native American Indian Tribe.
- B. Native American Indian Group.
- C. Native American Special Interest Organization.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-102. Definitions.

As used in this article, unless the context clearly requires otherwise:

- A. "State" means the State of South Carolina.
- B. "Commission" means the South Carolina Commission for Minority Affairs.
- C. "Board" means a quorum or more of the oversight body of the Commission.
- D. "Tribe" means an assembly of Indian people comprising numerous families, clans, or generations together with their descendents, who have a common character, interest, and behavior denoting a separate ethnic and cultural heritage, and who have existed as a separate community, on a substantially continuous basis throughout the past 100 years. In general, core members of the tribe are related to

each other by blood. A tribal council and governmental authority unique to Native American Indians govern them.

E. "Group" means a number of individuals assembled together, which have different characteristics, interests and behaviors that do not denote a separate ethnic and cultural heritage today, as they once did. The group is composed of both Native American Indians and other ethnic races. They are not all related to one another by blood. A tribal council and governmental authority unique to Native American Indians govern them.

F. "Special Interest Organization" means an assembly of people who have united for the common purpose of promoting Native American culture and addressing socio-economic deprivation among people of Indian origin. The organization is made up of Native American Indians and other ethnic races. A tribal council or other form of governing body provides oversight and management. Membership is not required. They may be organized as a private nonprofit corporation under the laws of South Carolina.

G. "Official Record" means a record created, received, sanctioned by, or proceeding from an officer acting in an official capacity.

H. "Lineage" means direct descent from a particular ancestor or the descendants of a common ancestor considered the founder of the line.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-103. Notification of Recognition Status, Appeals and Withdrawals.

A. Formal acknowledgement of the decision of the Board of the Commission regarding the status of an application for State Recognition shall be in writing, and may be further acknowledged in other forms (certificate, plaque, and/or culturally appropriate ceremony) as determined appropriate by the Commission.

B. Whenever an entity receives an unfavorable recommendation from the State Recognition Committee, the entity will be notified by mail within five business days from the date of notification to the Board of the Commission. This notification will include the reason the unfavorable recommendation was given. The entity shall have ten business days from receipt of the notification letter to submit an appeal asking for reversal of that decision. The appeal must state clearly the reasons that the entity believes that the decision should be reversed. The Commission for Minority Affairs must receive the appeal in writing. Entities are barred from submitting new information, updated information, additional exhibits, charts, and/or any additional documentation that was not part of the original petition and considered by members of the State Recognition Committee.

C. An entity may withdraw its request for State Recognition at any point during the initial review process by the State Recognition Committee. After the State Recognition Committee makes its initial recommendations to the Board of the Commission, an entity may not withdraw its request.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-104. Limitations.

A. The Native American Indian entities recognized by this act, their members, lands, natural resources, or other property owned by such entities or their members, are subject to the civil, criminal, and regulatory jurisdiction and laws of the State of South Carolina, its agencies, and political subdivisions, and the civil and criminal jurisdiction of the courts of the State of South Carolina, to the same extent as any other person, citizen or land in South Carolina.

B. Notwithstanding their state certification, Native American Indian entities have no power or authority to take any action that would establish, advance or promote any form of gambling in the State of South Carolina; nor does this provision of law confer power or authority to take any action which could establish, advance or promote any form of gambling in the State.

C. Nothing in this act recognizes, creates, extends, or forms the basis of any right or claim of interest in land or real estate in this State for any Native American Indian entity recognized by the State.

D. Federally recognized tribes retain all federally recognized sovereignty of rights under this provision of law.

E. State recognized tribes that subsequently obtain federal recognition are not bound by the limitations of this provision and therefore, gain and retain all federally recognized sovereignty of rights under this provision of law.

F. Splinter groups, political factions, communities or groups that separate from the main body of a currently State acknowledged tribe or who claim the same ancestors, history, genealogy, institutions, establishments, or other primary characteristics of a currently recognized tribe, may not be acknowledged under these regulations. However, entities that can establish clearly and on a substantially continuous basis that they have functioned throughout the past one hundred years until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or as having been associated in some manner with an acknowledged South Carolina Indian Tribe. No entities formed after January 1, 2006 shall be granted State recognition as a "Tribe".

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-105. Criteria for State Recognition.

A. Native American Indian Tribe - requirements 1 through 9 must be satisfactorily met to achieve State Recognition. Requirements 10 and 11 are optional.

(1) The tribe is headquartered in the State of South Carolina and indigenous to this State. The tribe must produce evidence of tribal organization and/or government and tribal rolls for a minimum of five years.

(2) Historical presence in the State for past 100 years and entity meets all of the characteristics of a "tribe" as defined in R. 139-102 (D)

(3) Organized for the purpose of preserving, documenting and promoting the Native American Indian culture and history, and have such reflected in its by-laws.

(4) Exist to meet one or more of the following needs of Native American Indian people - spiritual, social, economic, or cultural needs through a continuous series of educational programs and activities that preserve, document, and promote the Native American Indian culture and history.

(5) Claims must be supported by official records such as birth certificates, church records, school records, U.S. Bureau of the Census records, and other pertinent documents.

(6) Documented kinship relationships with other Indian tribes in and outside the State.

(7) Anthropological or historical accounts tied to the group's Indian ancestry.

(8) A minimum of one hundred living descendants who are eighteen years of age or older, whose Indian lineage can be documented by a lineal genealogy chart, and whose names, and current addresses appear on the Tribal Roll.

(9) Documented traditions, customs, legends, etc., that signify the specific group's Indian heritage.

(10) Letters, statements, and documents from state or federal authorities, that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation, and affairs.

(11) Letters, statements, and documents from tribes in and outside of South Carolina which attest to the Indian heritage of the group.

B. Native American Indian Group - requirements 1 through 5 must be satisfactorily met to achieve State Recognition. Requirement 6 is optional.

(1) The group headquartered in South Carolina and indigenous to this State.

(2) Assembled as a "Group" for a minimum of three years, and entity meets all the characteristics of a "Group" as defined in R. 139-102 (E).

(3) Organized for the purpose of preserving, documenting and promoting the Native American Indian culture and history, and have such reflected in its by-laws.

(4) Exist to meet one or more of the following needs of Native American Indian people - spiritual, social, economic, or cultural needs through a continuous series of educational programs and activities that preserve, document, and promote the Native American Indian culture and history.

(5) Claims must be supported by official records such as birth certificates, church records, school records, U.S. Bureau of the Census records, or other pertinent documents.

(6) Letters, statements, and documents from state or federal authorities, that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation and affairs.

C. Native American Special Interest Organization - requirements 1 through 4 must be satisfactorily met to achieve State recognition. Requirement 5 is optional.

(1) The organization must represent the interest of Native American Indian people residing in South Carolina.

(2) The organization is recognized as a private nonprofit corporation under the laws of the State.

(3) Letters, statements, and documents from tribes attesting to the work of the organization as it promotes Native American culture and addresses socio-economic deprivation among people of Indian origin.

(4) Formed and operating for a minimum of two years.

(5) Letters, statements, and documents from state and federal authorities that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation, and affairs.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-106. Purpose of the Native American Indian Advisory Committee.

It shall be the purpose of the Native American Indian Advisory Committee to preserve the true aboriginal culture of the Americas in the State of South Carolina and to advance the Native American Indian culture by:

(A) Advising the Commission regarding Native American Indian Affairs.

(B) Identifying the needs and concerns of the Native American Indian people of South Carolina by bringing such needs and concerns to the attention of the Commission.

(C) Making recommendations to the Commission to address the needs and concerns of Native American Indian people.

(D) Inviting individuals recognized as specialists in Native American Indian Affairs and representatives of the state and federal agencies to present information to members of the Advisory Committee.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-107. Membership Requirements for the Native American Advisory Committee.

Entities who want to participate on the Native American Indian Advisory Committee must meet and comply with the following minimum requirements:

(A) The entity must have obtained State Recognition designation as either:

(1) A Tribe.

(2) A Group.

(B) Upon receiving State Recognition, the tribal council, and/or governmental authority of the "Tribe" or "Group" must provide in writing to the Commission, the name, address, and telephone number of the voting representative to serve on the Advisory Committee. Designees shall continue to serve until such time as the Executive Director of the Commission is notified in writing of a change by the appointing tribal council and/or governmental authority.

(C) Additionally, representatives from the following organizations shall serve as non-voting advisors to members of the Native American Indian Advisory Committee:

(1) Office of the Governor.

(2) Office of the State Archeologist.

(3) Federally Recognized Tribes.

(4) Commission for Minority Affairs.

(5) Representatives from South Carolina state agencies having a vested interest in Native American affairs.

(D) The Chair of the Native American Indian Advisory Committee shall be the Executive Director of the Commission for Minority Affairs or a designee appointed by the Executive Director.

(E) The Native American Indian Advisory Committee serves at the pleasure of the Board of the Commission for Minority Affairs.

(F) The Native American Indian Advisory Committee shall meet at least twice a year or at the call of the chair.

(G) The Native American Indian Advisory Committee may establish subcommittees to carry out its purpose.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-108. Membership, Terms, and Voting Power of the State Recognition Committee.

(A) The State Recognition Committee shall consist of five (5) members:

(1) The State Archeologist.

(2) The Executive Director of the Commission for Minority Affairs.

(3) Two members of the Native American Indian Advisory Committee.

(4) One notable Native American leader or scholar from across the United States, excluding South Carolina.

(B) The State Archaeologist and the Executive Director of the Commission for Minority Affairs shall serve indefinitely. The Executive Director of the Commission for Minority Affairs shall serve as chair of the State Recognition Committee. The three remaining positions shall serve for two-year terms beginning July 1 and ending June 30 of each two-year term.

(C) Initially, three persons shall compose the Interim State Recognition Committee. This interim group shall consist of:

(1) The State Archeologist.

(2) The Executive Director of the Commission for Minority Affairs.

(3) One representative from a South Carolina Native American Indian entity or notable Native American leader or scholar from across the United States, to be decided by the State Archaeologist and the Executive Director of the Commission for Minority Affairs.

(D) The two entities first obtaining State Recognition shall take their seats on the following July 1 and will represent the Native American Indian Advisory Committee on the State Recognition Committee. Thereafter, the two members representing the Native American Indian Advisory Committee shall be selected by the Committee members, by majority vote from among those "Tribes" and "Groups" having obtained State Recognition.

(E) Upon seating the first two entities to obtain State Recognition on the State Recognition Committee, the four members of the State Recognition Committee shall select one person to fill the seat designated for "One representative from a South Carolina Native American Indian entity or a notable Native American leader or scholar from across the United States." The four State Recognition Committee members may select an individual from among the following categories:

(1) State recognized "Tribe" or "Group".

(2) Federally recognized "Tribe".

(3) Native American Entity.

(4) Native American Leader or Scholar.

(F) Thereafter, the four members of the State Recognition Committee shall select one person from among the following categories:

(1) Federally recognized "Tribe".

(2) Notable Native American leader or scholar from across the United States, excluding South Carolina.

(G) The establishment of the first three-member Interim State Recognition Committee shall be at the discretion of the Executive Director of the Commission for Minority Affairs. Thereafter, elections shall be held in April every other year, prior to the end of the two-year term for seating of State Recognition Committee members.

(H) An entity applying for State Recognition must receive a majority vote or three affirmative votes out of five to be recommended for State Recognition. The absence of a member or failure of a committee member to vote will be counted as an "Abstention" vote. No member may cast a vote for another member.

(I) In the event that a member is no longer able to serve due to death, illness, or other personal reasons, a written letter of resignation from the governing body of the entity represented should be sent to the Executive Director of the Commission for Minority Affairs. Upon receiving the letter of resignation, the Executive Director shall move forward to fill the vacancy and the remaining unexpired term in accordance with the guidelines set forth herein. If a member fails to participate after having been appointed to the State Recognition Committee, the Executive Director shall make the Chairperson of the Board of the Commission for Minority Affairs aware of the impact upon the State Recognition process, and the Board may vote to declare the seat vacant. If such occurs, a new appointment may be made in accordance with the manner in which the seat was filled, and in accordance with the guidelines set forth herein.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-109. Duties of the State Recognition Committee.

(A) The State Recognition Committee shall review all information submitted to the Commission for Minority Affairs from entities seeking State Recognition as:

(1) A Tribe.

(2) A Group.

(3) A Special Interest Organization.

(B) The State Recognition Committee shall review all information submitted in accordance with R. 139-102 (D)(E)(F) and R. 139-105 (A)(B)(C), and request such information as it deems appropriate and necessary to make a recommendation to the Board of the Commission. State Recognition Committee may seek clarification through written correspondence or by meeting with an entity as it deems appropriate. The State Recognition Committee will not accept unsolicited additional documentation.

(C) The State Recognition Committee shall receive applications twice a year from entities seeking State Recognition, that being on or before April 1 and September 1 of each year.

(D) The State Recognition Committee shall make its recommendations within 120 days. The Chair of the State Recognition Committee must notify the Chair of the Board of the Commission for Minority Affairs of its recommendation regarding each entity.

(E) The Board of the Commission shall either reject or accept the recommendations of the State Recognition Committee in part, or in whole. In either event, all entities will be advised of the status of their requests and the reason for approval or rejection.

(F) Entities who fail to achieve State Recognition shall not be eligible to reapply for the same status for one year from their original date of submission, that being April 1 or September 1 and in accordance with R. 139-109(C).

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-110. Verification of Authenticity of Documents.

(A) All copies of official records and other documents submitted in support of State Recognition of Native American Indian entities must include a means for the State Recognition Committee to

ascertain authenticity. In the case of official records, this may include a stamped, dated, embossed, and signed certification on the document by the office from which the record was obtained. For other documents, a signed and notarized affidavit of origin and other relevant information to support authentication is required.

(B) In those instances where records are maintained under lock and key, such as tribal rolls, adoption papers, birth certificates and other legal papers, members of the State Recognition Committee may conduct an on-site review of such documents on the premises of the entity making application. Members of the Committee may request supporting documentation on-site that provides evidence of the existence of a viable Native American Indian "Tribe", "Group", and "Organization".

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

ARTICLE II ADVISORY COMMITTEES

(Statutory Authority: S.C. Code § 1-31-40(A)(7) and (10))

139-200. Purpose.

Section 1-31-40(A)(7),(10), South Carolina Code of Laws, provides that "The Commission shall establish advisory committees representative of minority groups, as the Commission considers appropriate to advise the Commission," and "The Commission shall promulgate regulations as may be necessary to carry out the provisions of this article including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina;"

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-201. Scope.

These rules and regulations shall be applicable to all advisory committees, except as specifically addressed separately for Native American Indians.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-202. Duties of Advisory Committees.

A. Advise the Commission for Minority Affairs regarding socio-economic issues relevant to African Americans, Hispanics/Latinos, Asians and other ethnic minority groups in South Carolina.

B. Identify the needs and concerns of the various ethnic minorities and bring such needs and concerns to the attention of the Commission for Minority Affairs.

C. Make recommendations to the Commission for Minority Affairs to address the needs and concerns of ethnic minority groups.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

139-203. Membership, Terms, Size, and Administration of the Advisory Committees.

A. The recommendation and selection of persons to serve on the Advisory Committees shall be made by the Executive Director of the Commission, with the review and approval of the Board of the Commission for Minority Affairs.

B. The committee members shall serve for two year terms and may be recommended for reappointment by the Executive Director of the Commission, with the review and approval of the Board of the Commission for Minority Affairs.

C. Advisory Committees shall not exceed twenty persons.

D. The chair of all Advisory Committees shall be the Executive Director of the Commission for Minority Affairs or a designee appointed by the Executive Director.

E. Advisory Committees serve at the pleasure of the Board of the Commission for Minority Affairs.

F. Advisory Committee members, including Native Americans, serve without compensation or per diem.

G. All meetings, documents and work produced or performed by an Advisory Committee, except as exempted by these regulations, shall be covered by the Freedom of Information Act.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

The Vermont Statutes Online

Title 1: General Provisions

Chapter 23: Native American Indian People

§ 851. Findings

The General Assembly finds that:

(1) At least 1,700 Vermonters claim to be direct descendants of the several indigenous Native American peoples, now known as Western Abenaki tribes, who originally inhabited all of Vermont and New Hampshire, parts of western Maine, parts of southern Quebec, and parts of upstate New York for hundreds of years, beginning long before the arrival of Europeans.

(2) There is ample archaeological evidence that demonstrates that the Missisquoi and Cowasuck Abenaki were indigenous to and farmed the river floodplains of Vermont at least as far back as the 1100s A.D.

(3) The Western Abenaki, including the Missisquoi, have a very definite and carefully maintained oral tradition that consistently references the Champlain valley in western Vermont.

(4) State recognition confers official acknowledgment of the long-standing existence in Vermont of Native American Indians who predated European settlement and enhances dignity and pride in their heritage and community.

(5) Many contemporary Abenaki families continue to produce traditional crafts and intend to continue to pass on these indigenous traditions to the younger generations. In order to create and sell Abenaki crafts that may be labeled as Indian- or Native American-produced, the Abenaki must be recognized by the State of Vermont.

(6) According to a public affairs specialist with the U.S. Bureau of Indian Affairs (BIA), State recognition of Indian tribes plays a very small role with regard to federal recognition. The only exception is when a state recognized a tribe before 1900.

(7) At least 15 other states have recognized their resident indigenous people as Native American Indian tribes without any of those tribes previously or subsequently acquiring federal recognition.

(8) State-recognized Native American Indian tribes and their members will continue to be subject to all laws of the State, and recognition shall not be construed to create any basis or authority for tribes to establish or promote any form of prohibited gambling activity or to claim any interest in land or real estate in Vermont. (Added 2005, No. 125 (Adj. Sess.), § 1, eff. May 3, 2006; amended 2009, No. 107 (Adj. Sess.), § 1, eff. May 14, 2010.)

§ 852. Vermont Commission on Native American Affairs established; authority

(a) In order to recognize the historic and cultural contributions of Native Americans to Vermont, to protect and strengthen their heritage, and to address their needs in State policy, programs, and actions, there is hereby established the Vermont Commission on Native American Affairs (the "Commission").

(b) The Commission shall be composed of nine members appointed by the Governor for staggered two-year terms from a list of candidates compiled by the Division for Historic Preservation. The Governor shall appoint members who have been residents of Vermont for a minimum of three years and reflect a diversity of affiliations and geographic locations in Vermont. A member may serve for no more than two consecutive terms, unless there are insufficient eligible candidates. The Division shall compile a list of candidates from the following:

(1) Recommendations from Native American communities residing in Vermont. Once a Native American Indian tribe has been recognized under this chapter, a qualified candidate recommended by that tribe shall have priority for appointment to fill the next available vacancy on the Commission.

(2) Individuals who apply to the Division for Historical Preservation. Candidates shall indicate their residence and Native American affiliation.

(c) The Commission shall:

(1) elect a chair each year;

(2) provide technical assistance and an explanation of the process to applicants for State recognition;

(3) compile and maintain a list of professionals and scholars for appointment to a review panel;

(4) appoint a three-member panel acceptable to both the applicant and the Commission to review supporting documentation of an application for recognition and advise the Commission of its accuracy and relevance;

(5) review each application, supporting documentation and findings of the review panel, and make recommendations for or against State recognition to the legislative committees;

(6) assist Native American Indian tribes recognized by the State to:

(A) secure assistance for social services, education, employment opportunities, health care, and housing;

(B) develop and market Vermont Native American fine and performing arts, craft work, and cultural events; and

(7) develop policies and programs to benefit Vermont's Native American Indian population within the scope of the Commission's authority.

(d) During fiscal year 2011, the Commission shall meet at least three times a year and at any other times at the request of the Chair and Commission members shall receive a per diem pursuant to 32 V.S.A. § 1010. In fiscal year 2012 and thereafter, the Commission shall meet as needed but members shall receive a per diem pursuant to 32 V.S.A. § 1010 no more than six times a year. The Division for Historic Preservation within the Agency of Commerce and Community Development shall provide administrative support to the Commission, including providing communication and contact resources.

(e) The Commission may seek and receive funding from federal and other sources to assist with its work. (Added 2005, No. 125 (Adj. Sess.), § 1, eff. May 3, 2006; amended 2009, No. 107 (Adj. Sess.), § 3, eff. May 14, 2010; 2011, No. 3, § 99.)

§ 853. Criteria and process for State recognition of Native American Indian tribes

(a) For the purposes of this section:

(1) "Applicant" means a group or band seeking formal State recognition as a Native American Indian tribe.

(2) "Legislative committees" means the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(3) "Recognized" or "recognition" means acknowledged as a Native American Indian tribe by the Vermont General Assembly.

(4) "Tribe" means an assembly of Native American Indian people who are related to each other by kinship and who trace their ancestry to a kinship group that has historically maintained an organizational structure that exerts influence and authority over its members.

(b) The State recognizes all individuals of Native American Indian heritage who reside in Vermont as an ethnic minority. This designation does not confer any status to any collective group of individuals.

(c) In order to be eligible for recognition, an applicant must file an application with the Commission and demonstrate compliance with subdivisions (1) through (8) of this subsection which may be supplemented by subdivision (9) of this subsection:

(1) A majority of the applicant's members currently reside in a specific geographic location within Vermont.

(2) A substantial number of the applicant's members are related to each other by kinship and trace their ancestry to a kinship group through genealogy or other methods. Genealogical documents shall be limited to those that show a descendency from identified Vermont or regional native people.

(3) The applicant has a connection with Native American Indian tribes and bands that have historically inhabited Vermont.

(4) The applicant has historically maintained an organizational structure that exerts influence and authority over its members that is supported by documentation of the structure, membership criteria, the names and residential addresses of its members, and the methods by which the applicant conducts its affairs.

(5) The applicant has an enduring community presence within the boundaries of Vermont that is documented by archaeology, ethnography, physical anthropology, history, folklore, or any other applicable scholarly research and data.

(6) The applicant is organized in part:

(A) to preserve, document, and promote its Native American Indian culture and history, and this purpose is reflected in its bylaws;

(B) to address the social, economic, political, or cultural needs of the members with ongoing educational programs and activities.

(7) The applicant can document traditions, customs, oral stories, and histories that signify the applicant's Native American heritage and connection to their historical homeland.

(8) The applicant has not been recognized as a tribe in any other state, province, or nation.

(9) Submission of letters, statements, and documents from:

(A) municipal, State, or federal authorities that document the applicant's history of tribe-related business and activities;

(B) tribes in and outside Vermont that attest to the Native American Indian heritage of the applicant.

(d) The Commission shall consider the application pursuant to the following process which shall include at least the following requirements:

(1) The Commission shall:

(A) provide public notice of receipt of the application and supporting documentation;

(B) hold at least one public hearing on the application; and

(C) provide written notice of completion of each step of the recognition process to the applicant.

(2) Established appropriate time frames that include a requirement that the Commission and the review panel shall complete a review of the application and issue a determination regarding recognition within one year after an application and all the supporting documentation have been filed, and if a recommendation is not issued, the Commission shall provide written explanation to the applicant and the legislative committees of the reasons for the delay and the expected date that a decision will be issued.

(3) A process for appointing a three-member review panel for each application to review the supporting documentation and determine its sufficiency, accuracy, and relevance. The review panel shall provide a detailed written report of its findings and conclusions to the Commission, the applicant, and legislative committees. Members of each review panel shall be appointed cooperatively by the Commission and the applicant from a list of professionals and academic scholars with expertise in cultural or physical anthropology, Indian law, archaeology, Native American Indian genealogy, history, or another related Native American Indian subject area. If the applicant and the Commission are unable to agree on a panel, the State Historic Preservation Officer shall appoint the panel. No member of the review panel may be a member of the Commission or affiliated with or on the tribal rolls of the applicant.

(4) The Commission shall review the application, the supporting documentation, the report from the review panel, and any other relevant information to determine compliance with subsection (b) of this section and make a determination to recommend or deny recognition. The decision to recommend recognition shall require a majority vote of all eligible members of the Commission. A member of the Commission who is on the tribal roll of the applicant is ineligible to participate in any action regarding the application. If the Commission denies recognition, the Commission shall provide the applicant and the legislative committees with written notice of the reasons for the denial, including specifics of all insufficiencies of the application.

(5) The applicant may file additional supporting documentation for reconsideration within one year after receipt of the notice of denial.

(6) An applicant may withdraw an application any time before the Commission issues a recommendation, and may not file a new application for two years following withdrawal. A new application and supporting documentation shall be considered a de novo filing, and the Commission shall not consider the withdrawn application or its supporting documentation.

(7) [Repealed.]

(8) All proceedings, applications, and supporting documentation shall be public except material exempt pursuant to subdivision 317(c)(40) of this title. Any documents relating to genealogy submitted in support of the application shall be available only to the three-member review panel.

(e) An applicant for recognition shall be recognized as follows:

(1) by approval of the General Assembly;

(2) two years after a recommendation to recognize a tribe by the Commission is filed with the legislative committees, provided the General Assembly took no action on the recommendation.

(f) A decision by the Commission to recommend denial of recognition is final unless an applicant or a successor of interest to the applicant that has previously applied for and been denied recognition under this chapter provides new and substantial documentation and demonstrates that the new documentation was not reasonably available at the time of the filing of the original application.

(g) Vermont Native American Indian bands and tribes and individual members of those bands and tribes remain subject to all the laws of the State.

(h) Recognition of a Native American Indian tribe shall not be construed to create, extend, or form the basis of any right or claim to land or real estate in Vermont or right to conduct any gambling activities prohibited by law, but confers only those rights specifically described in this chapter. (Added 2005, No. 125 (Adj. Sess.), § 1, eff. May 3, 2006; amended 2009, No. 107 (Adj. Sess.), § 4, eff. May 14, 2010; 2013, No. 142 (Adj. Sess.), § 80, eff. July 1, 2014.)

§ 853a. Recognition of Elnu Abenaki tribe

The Elnu Abenaki tribe has filed an application for tribal recognition with the Vermont Commission on Native American Affairs and has complied with the recognition requirements contained in subdivisions 853(c)(1)-(9) of this title and is hereby recognized by the State of Vermont as a Native American Indian tribe. (Added 2011, No. 9, § 1, eff. April 22, 2011.)

§ 854. Recognition of Nulhegan Band of the Coosuk Abenaki Nation

The Nulhegan Band of the Coosuk Abenaki Nation has filed an application for tribal recognition with the Vermont Commission on Native American Affairs and has complied with the recognition requirements contained in subdivisions 853(c)(1)-(9) of this title and is hereby recognized by the State of Vermont as a Native American Indian tribe. (Added 2011, No. 8, § 1, eff. April 22, 2011.)

§ 855. Recognition of Koasek Abenaki of the Koas

The Koasek Abenaki of the Koas has filed an application for tribal recognition with the Vermont Commission on Native American Affairs and has complied with the recognition requirements contained in subdivisions 853(c)(1)-(9) of this title and is hereby recognized by the State of Vermont as a Native American Indian tribe. (Added 2011, No. 106 (Adj. Sess.), § 1, eff. May 7, 2012.)

§ 856. Recognition of Missisquoi, St. Francis-Sokoki band

The Missisquoi, St. Francis-Sokoki Band has filed an application for tribal recognition with the Vermont Commission on Native American Affairs and has complied with the recognition requirements contained in subdivisions 853(c)(1)-(9) of this title and is hereby recognized by the State of Vermont as a Native American Indian tribe. (Added 2011, No. 105 (Adj. Sess.), § 1, eff. May 7, 2012.)

Virginia

2016 SESSION

CHAPTER 746

An Act to amend and reenact § 2.2-401.01 of the Code of Virginia, relating to powers and duties of the Secretary of the Commonwealth; creation of a Virginia Indian advisory board.

[H 814]

Approved April 20, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-401.01 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-401.01. Liaison to Virginia Indian tribes.

A. The Secretary of the Commonwealth shall:

1. Serve as the Governor's liaison to the Virginia Indian tribes; and
2. Report annually on the status of Indian tribes in Virginia.

B. *The Secretary of the Commonwealth may establish a Virginia Indian advisory board to assist the Secretary in reviewing applications seeking recognition as a Virginia Indian tribe and to make recommendations to the Secretary, the Governor, and the General Assembly on such applications and other matters relating to recognition as follows:*

1. The members of any such board shall be composed of no more than seven members to be appointed by the Secretary as follows: at least three of the members shall be members of Virginia recognized tribes to represent the Virginia Indian community, and one nonlegislative citizen member shall represent the Commonwealth's scholarly community. The Librarian of Virginia, the Director of the Department of Historic Resources, and the Superintendent of Public Instruction, or their designees, shall serve ex officio with voting privileges. Nonlegislative citizen members of any such board shall be citizens of the Commonwealth. Ex officio members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. The Secretary of the Commonwealth shall appoint a chairperson from among the members for a two-year term. Members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

2. *Any such board shall have the following powers and duties:*

- a. *Establish guidance for documentation required to meet the criteria for full recognition of the Virginia Indian tribes that is consistent with the principles and requirements of federal tribal recognition;*
- b. *Establish a process for accepting and reviewing all applications for full tribal recognition;*
- c. *Appoint and establish a workgroup on tribal recognition composed of nonlegislative citizens at large who have knowledge of Virginia Indian history and current status. Such workgroup (i) may be activated in any year in which an application for full tribal recognition has been submitted and in other years as deemed appropriate by any such board and (ii) shall include at a minimum a genealogist and at least two scholars with recognized familiarity with Virginia Indian tribes. No member of the workgroup shall be associated in any way with the applicant. Members of the workgroup shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825;*
- d. *Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the board;*
- e. *Make recommendations to the Secretary for full tribal recognition based on the findings of the workgroup and the board; and*
- f. *Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of this subsection.*