



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #TUL-13-056

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TITLE: Support for Tribes Providing Online Short Term Consumer Financial Services and Products Pursuant to Tribal Law and Ensuring Appropriate Regulation of these Services for the Protection and Fairness of Consumers

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the United States' current policy toward Indian affairs is one of tribal self-determination and tribal autonomy, to strengthen tribal nations and encourage economic development so that tribal nations can effectively govern and provide resources for their peoples; and

WHEREAS, in July 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act, ("Dodd-Frank Act"), for the stated purpose of "promot[ing] the financial stability of the United States by improving accountability and transparency in the financial system . . . [and] protect[ing] consumers from abusive financial services practices;" and

WHEREAS, under Title X of the Dodd-Frank Act, tribal governments are included in the definition of States, recognizing the status of tribal nations as co-regulators of consumer financial services; and

WHEREAS, all references to States throughout Title X of the Dodd-Frank Act highlight the cooperation Congress envisioned between the federal government and tribes, further reinforcing that Congress intended States (and thus tribes) to make governance decisions regarding the legalization, regulation, and conduct of short term on-line consumer financial services and products within the confines of applicable tribal and federal consumer protection laws; and

WHEREAS, pursuant to the Dodd-Frank Act, Congress expressly recognized the authority of tribal governments to conduct and regulate short-term online consumer financial services; and

WHEREAS, pursuant to their inherent sovereign authority and as expressly recognized by Congress, Tribal governments have been engaged in providing online short term consumer financial services and products within the boundaries of their tribal lands in an effort to expand economic development opportunities; and

WHEREAS, NCAI supports member tribes offering online short term consumer financial products and services, which are authorized under tribal law, consistent with federal consumer protection laws as well as relevant Congressional directives; and

WHEREAS, NCAI is aware of certain entities providing online lending products and services that claim affiliation with Indian tribes but are neither wholly owned and operated by Tribal governments, nor are their lending activities authorized pursuant to tribal law, their proceeds earmarked specifically to fund essential tribal government services, their business conduct regulated by tribal regulators, nor are their customers provided with the consistent application of federal consumer protection laws; and

WHEREAS, NCAI's support on this issue does not extend to non-tribally owned and operated entities which do not operate in accordance with tribal law and applicable federal consumer protection laws; and

WHEREAS, NCAI recognizes that engaging in the responsible conduct of these ecommerce economic development opportunities thereby advances the goals of many tribal governments to realize self-sufficiency and improve the lives their tribal citizens; and

WHEREAS, NCAI supports the authority of Tribal Nations to exercise self-determination by enacting short-term consumer financial service laws and establishing regulatory agencies for the oversight and enforcement of such tribal and federal laws in an effort to regulate the short-term consumer financial industry on tribal land; and

WHEREAS, this resolution is consistent with NCAI's previous efforts and policy to protect consumers from predatory financial practices.

NOW THEREFORE BE IT RESOLVED, that NCAI supports the efforts of Tribal Nations to offer online short term consumer financial services and products where appropriately authorized and to regulate these services, pursuant to Tribal law and in accordance with federal law and policy, in the exercise of their self-determination and self-governance; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.



President

ATTEST:



Recording Secretary