

NORTHERN ARAPAHO CODE

TITLE 2. BUSINESS ORGANIZATIONS

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Section 101 - Authority. The Northern Arapaho Tribe is a sovereign, federally recognized Indian Tribe. The Northern Arapaho Business Council is authorized under tribal law to enact tribal codes. This Code is enacted pursuant to the Tribes' inherent powers of self-government, which includes the power to charter corporations, limited liability companies, or other business entities.

Comment: This Act is modeled on the Uniform Limited Liability Act.

Section 102 - Findings. Unemployment and poverty on the Wind River Indian Reservation is unconscionably high. The development of business opportunities for tribal members and others on the Reservation is a critical part of the policy of the Northern Arapaho Tribe to promote the development and growth of economic opportunities on the Reservation. Enactment of this Code is a necessary part of this effort and is therefore essential to the health, education and general welfare of Reservation residents.

Section 103 - Definitions. As used in this act:

(a) "Bankrupt" means bankrupt under the federal Bankruptcy Act;

(b) "Business Organization" or "Company" means a company organized and existing under this act.

(c) "Court" includes every court and judge having jurisdiction in the case;

(d) "Person" includes individuals, general partnerships, limited partnerships, limited liability companies, corporations, trusts, business trusts, real estate investment trusts, estates and other associations;

(e) "Real Property" includes land, any interest, leasehold or estate in land and any improvements on it;

(f) "Reservation" means the Wind River Indian Reservation, Wyoming;

(g) "This Act" or "This Code" means the Northern Arapaho Business Organization Code;

(h) "Tribe" means the Northern Arapaho Tribe unless otherwise specifically provided.

Section 104 - Purpose.

(a) Companies may be organized under this act for any lawful purpose, except for the purpose of banking or insurance.

(b) Nothing in this act shall be interpreted as precluding an individual whose occupation requires licensure under Tribal law from forming a company if the applicable licensing laws do not prohibit it and the licensing body does not prohibit it by rule or regulation adopted consistent with the appropriate licensing law. No company may offer professional services or practice a profession except by and through its licensed members or licensed employees, each of whom shall retain his professional license in good standing and shall remain as fully liable and responsible for his professional activities, and subject to all rules, regulations, standards and requirements pertaining thereto, as though practicing individually rather than in a company.

Section 105 - Powers. Each company organized and existing under this act may:

(a) Sue and be sued, complain and defend, in its name;

(b) Purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or an interest in it, wherever situated;

(c) Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;

(d) Lend money to and otherwise assist its members, managers and employees;

(e) Purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of, and otherwise use and deal in and with shares or other interests in or obligations of other companies, domestic or foreign corporations, associations, general or limited partnerships or individuals, or direct or indirect obligations of the United States or of any government, tribe, state, territory, governmental district or municipality or of any instrumentality of it;

(f) Make contracts and guarantees and incur liabilities,

borrow money at such rates of interest as the company may determine, issue its notes, bonds and other obligations and secure any of its obligations by mortgage or pledge of all or any part of its property, franchises and income;

(g) Lend money for its proper purposes, invest and reinvest its funds and take and hold real property and personal property for the payment of funds so loaned or invested;

(h) Conduct its business, carry on its operations and have and exercise the powers granted by this act in any Indian reservation, state, territory, district or possession of the United States, or in any foreign country;

(i) Elect or appoint managers, officers, employees and agents of the company, and define their duties and authority, which may include authority also delegated to the members or managers under this Code, and fix their compensation;

(j) Make and alter operating agreements, not inconsistent with its articles of organization or with the laws of the Northern Arapaho Tribe, for the administration and regulation of the affairs of the company;

(k) Indemnify a member or manager or former member or manager of the company against expenses actually and reasonably incurred by him/her or it in connection with the defense of an action, suit or proceeding, civil or criminal, in which he/she or it is made a party by reason of being or having been such member or manager, except in relation to matters as to which he/she or it shall be adjudged in the action, suit or proceeding to be liable to the company for negligence or misconduct in the performance of duty or to have received improper personal benefit on account thereof; and to make any other indemnification that is authorized by the articles of organization or by an article of the operating agreement or resolution adopted by the members after notice;

(l) Cease its activities and surrender its certificate or organization;

(m) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the company is organized;

(n) Become a member of a general partnership, limited

partnership, joint venture or similar association, or any other company;

(o) Pay pensions and establish pension plans, pension trusts, profit-sharing plans, ownership interest bonus plans and option plans, and benefit or incentive plans for any or all of its current or former managers, officers, employees and agents;

(p) Make donations for the public welfare or for charitable, scientific or educational purposes.

Section 106 - Name.

(a) The words "business organization", "company", or abbreviations of the same shall be included in the name of every company formed under the provisions of this act and, in addition, the company name may not:

(i) Contain a word or phrase which indicates or implies that it is organized for a purpose other than one (1) or more of the purposes contained in its articles of organization;

(ii) Be the same as, or deceptively similar to, any trademark or service mark registered with the Northern Arapaho Tribe, the Eastern Shoshone Tribe or the State of Wyoming and shall be distinguishable upon the records of the Secretary of the Tribe from other business names .

(b) Omission of the words "business organization", "company", or abbreviations of the same in the use of the name of the company shall render any person who participates in the omission, or knowingly acquiesces in it, liable for indebtedness, damage or liability occasioned by the omission.

(c) A company may reserve a name in accordance with procedures and rules established by the Northern Arapaho Business Council.

Section 107 - Formation. Any person may form a company which shall have one (1) or more members by signing and delivering one (1) original and one (1) exact or conformed copy of the articles of organization to the Secretary of the Tribe for filing. The person forming the company need not be a member of the company. All records filed pursuant to this act shall be public.

Section 108 - Articles of Organization.

(a) The articles of organization shall set forth:

(i) The name of the company;

(ii) The period of its duration, which shall be thirty (30) years from the date of filing with the Secretary of the Tribe if no period of duration is specifically set forth in the articles of organization;

(iii) The purpose for which the company is organized;

(iv) The name and address of its registered agent on the Reservation;

(v) If the company is to be managed by a manager or managers, the articles of organization shall so state and shall set out the names and addresses of such manager or managers who are to serve as managers until the first annual meeting of members or until their successors are elected and qualify. If the management of a company is reserved to the members, the names and addresses of the members shall be set out in the articles of organization;

(vi) Any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this act are required or permitted to be set out in the operating agreement of the company.

(b) It is not necessary to set out in the articles of organization any of the powers enumerated in this act.

(c) The articles of organization shall be accompanied by a written consent to appointment manually signed by the registered agent.

Section 109 - Filing of Articles of Organization.

(a) One (1) original and one (1) exact or conformed copy of the articles of organization shall be delivered to the Secretary of the Tribe. If the Secretary of the Tribe finds that the articles of organization conform to law, he/she shall, when all fees have been paid, as in this act prescribed:

(i) Endorse on the original and conformed copy the word "Filed" and the month, day and year of the filing thereof;

(ii) File the original in his/her office;

(iii) Issue a certificate of organization to which he/she shall affix the conformed copy.

(b) The certificate of organization, together with the conformed copy of the articles of organization affixed to it by the Secretary of the Tribe, shall be returned to the representative of the company.

Section 110 - Effect of Issuance of Certificate of Organization.

(a) Upon the issuance of the certificate of organization, the company shall be considered organized, and such certificate of organization shall be conclusive evidence that all conditions precedent required to be performed by the members have been complied with and that the company has been legally organized under this act, except as against the Tribe in a proceeding to cancel or revoke the certificate of organization or for involuntary dissolution of the company.

(b) A company shall not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the Secretary of the Tribe has issued a certificate of organization.

Section 111 - Registered Office and Registered Agent to be Maintained. Each company shall have and continuously maintain on the Reservation:

(a) A registered office which may be, but need not be, the same as its place of business;

(b) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office or a domestic or foreign corporation or company authorized to transact business on the Reservation, having a business office identical with such registered office.

Section 112 - Change of Registered Office or Registered Agent.

(a) A company may change its registered office or agent, or both, upon filing in the office of the Secretary of the Tribe a statement setting forth:

- (i) The name of the company;
- (ii) The address of its then registered office;
- (iii) If the address of its registered office be changed, the address to which the registered office is to be changed;
- (iv) The name of its then registered agent;
- (v) If its registered agent be changed, the name of its successor registered agent;
- (vi) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical;
- (vii) That the change was authorized by affirmative vote of a majority of the members of the company.

(b) The statement shall be signed and delivered to the Secretary of the Tribe. If the Secretary of the Tribe finds that the statement conforms to the provisions of this act, he/she shall file the statement in his/her office, and upon filing the change of address of the registered office or the appointment of a new registered agent or both, as the case may be, is effective.

(c) Any registered agent of a company may resign as agent upon filing a written notice thereof, signed with one (1) original and one (1) exact or conformed copy, with the Secretary of the Tribe, who shall forthwith mail a copy thereof to the company at its principal mailing address as defined and prescribed by the Secretary. The appointment of the agent shall terminate upon the expiration of thirty (30) days after receipt of notice by the Secretary.

Section 113 - Failure to Maintain Registered Agent or Registered Office or Pay Annual Fee. If any company has failed for thirty (30) days to appoint and maintain a registered agent on the Reservation, or has failed for thirty (30) days after the change

of its registered office or registered agent to file in the office of the Secretary of the Tribe a statement of the change, or has failed to pay the fee required by this act it shall be deemed to be transacting business within this Reservation without authority and to have forfeited any franchises, rights or privileges acquired under the laws thereof and the forfeiture shall be made effective in the following manner. The Secretary of the Tribe shall mail by certified mail a notice of its failure to comply with aforesaid provisions. Unless compliance is made within thirty (30) days of the delivery of notice, the company shall be deemed defunct and to have forfeited its certificate of organization acquired under this act. Provided, that any defunct company may at any time within one (1) year after the forfeiture of its certificate, in the manner herein provided, be revived and reinstated, by filing the necessary statement under this act and paying the prescribed fee, together with a penalty of one hundred dollars (\$100.00).

Section 114 - Liability of Members and Managers. Neither the members of a company nor the managers of a company managed by a manager (or managers) are liable under a judgement, decree or order of a court, or in any other manner, for a debt, obligation or liability of the company.

Section 115 - Service of Process.

(a) The registered agent so appointed by a company shall be an agent of the company upon whom any process, notice or demand required or permitted by law to be served upon the company may be served.

(b) Whenever a company shall fail to appoint or maintain a registered agent on the Reservation, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the Secretary of the Tribe shall be an agent of the company upon whom any process, notice or demand may be served. Service on the Secretary of the Tribe of any process, notice or demand shall be made by delivering to and leaving with him/her, or with any clerk of his/her office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Secretary of the Tribe, he/she shall immediately cause one (1) of the copies thereof to be forwarded by registered mail addressed to the company at its principal mailing address as defined and prescribed by the Secretary of the Tribe. Any service so had on the Secretary of the Tribe shall be returnable in not less than thirty (30) days.

(c) The Secretary of the Tribe shall keep a record of all processes, notices and demands served upon him/her under this section and shall record therein the time of such service and his/her action with reference thereto.

(d) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a company in any other manner now or hereafter permitted by law.

Section 116 - Contributions to Capital. The contributions to capital of a member to the company may consist of cash or other property, promissory notes or services rendered or to be rendered.

Section 117 - Management. Management of the company shall be vested in its members, which unless otherwise provided in the operating agreement shall be in proportion to their contribution to the capital of the company, as adjusted from time to time to properly reflect any additional contributions or withdrawals by the members; however, if provision is made for it in the articles of organization, management of the company may be vested in a manager or managers who shall be elected by the members in the manner prescribed by the operating agreement of the company. If the articles of organization provide for the management of the company by a manager or managers, unless the operating agreement expressly dispenses with or substitutes for the requirement of annual elections, the manager or managers shall be elected annually by the members in a manner provided in the operating agreement. The manager or managers, or persons appointed by the manager or managers, shall also hold the offices and have the responsibilities accorded to them by the members and set out in the operating agreement of the company.

Section 118 - Contracting Debts. Except as otherwise provided in this act, no debt shall be contracted or liability incurred by or on behalf of a company, except by one (1) or more of its managers if management of the company has been vested by the members in a manager or managers or, if management of the company is retained by the members, then by any member.

Section 119 - Property. Real and personal property owned or purchased by a company shall be held and owned, and conveyance made, in the company name. Instruments and documents providing for the acquisition, mortgage or disposition of property of the company shall be valid and binding upon the company if executed

by one (1) or more managers of a company having a manager or managers or one (1) or more members of a company in which management has been retained in the members.

Section 120 - Division of Profits; Impairment of Capital. The company may, from time to time, divide and allocate the profits and losses of its business among the members and among classes of members of the company upon the basis stipulated in the operating agreement; provided, that after distribution is made, the assets of the company are in excess of all liabilities of the company except liabilities to members on account of their contributions. If the operating agreement does not so provide, profits and losses shall be allocated on the basis of the value of the contributions made by each member to the extent they have been received by the company and have not been returned.

Distributions of cash or other assets of a company shall be allocated among the members and among classes of members in the manner provided in the operating agreement. If the operating agreement does not so provide, distributions shall be made on the basis of the value of the contributions made by each member to the extent they have been received by the company and have not been returned. The provisions of this section regarding the allocation of losses shall not affect the limitation on liability of members and managers set forth in this act.

Section 121 - Withdrawal or Reduction of Members' Contributions to Capital.

(a) A member shall not receive out of company property any part of his/her or its contribution to capital until:

(i) All liabilities of the company, except liabilities to members on account of their contributions to capital, have been paid or there remains property of the company sufficient to pay them;

(ii) The consent of all members is had, unless the return of the contribution to capital may be rightfully demanded as provided in this act;

(iii) The articles of organization are cancelled or so amended as to set out the withdrawal or reduction.

(b) Subject to the provisions of subsection (a) of this section, a member may rightfully demand the return of his/her or its contribution:

- (i) On the dissolution of the company; or
- (ii) Unless otherwise prohibited or restricted in the operating agreement, after the member has given all other members of the company prior notice in writing in conformity with the operating agreement. If the operating agreement does not prohibit or restrict the right to demand the return of capital and no notice period is specified, a member making the demand must give six (6) months prior notice in writing.
- (c) In the absence of a statement in the articles of organization to the contrary or the consent of all members of the company, a member, irrespective of the nature of his/her or its contribution, has only the right to demand and receive cash in return for his/her or its contribution to capital.

(d) A member of a company may have the company dissolved and its affairs wound up when:

- (i) The member rightfully but unsuccessfully has demanded the return of his/her or its contribution; or
- (ii) The other liabilities of the company have not been paid, or the company property is insufficient for their payment and the member would otherwise be entitled to the return of his/her or its contribution.

Section 122 - Liability of Member to Company.

(a) A member is liable to the company:

- (i) For the difference between his/her or its contributions to capital as actually made and that stated in the articles of organization, operating agreement, subscription for contribution or other document executed by the member as having been made by the member; and
- (ii) For any unpaid contribution to capital which he/she or it agreed in the articles of organization, operating agreement or other document executed by the member to make in the future at the time and on the conditions stated in the articles of organization, operating agreement or other document evidencing such agreement.

(b) A member holds as trustee for the company:

(i) Specific property stated in the articles of organization, operating agreement or other document executed by the member as contributed by such member, but which was not contributed or which has been wrongfully or erroneously returned; and

(ii) Money or other property wrongfully paid or conveyed to such member on account of his/her or its contribution.

(c) The liabilities of a member as set out in this section can be waived or compromised only by the consent of all members; but a waiver or compromise shall not affect the right of a creditor of the company who extended credit or whose claim arose after the filing and before a cancellation or amendment of the articles of organization, to enforce the liabilities.

(d) When a contributor has rightfully received the return in whole or in part of the capital of his/her or its contribution, the contributor is nevertheless liable to the company, for a period of six (6) years after return of the capital contribution, for any sum, not in excess of the return without interest, necessary to discharge its liability to all creditors of the company who extended credit during the period the capital contribution was held by the company or whose claims arose before the return.

Section 123 - Interest in Company; Transferability of Interest.

The interest of all members in the company constitutes the personal estate of the member, and may be transferred or assigned as provided in the operating agreement. However, if all of the other members of the company other than the member proposing to dispose of his/her or its interest do not approve of the proposed transfer or assignment by unanimous written consent, the transferee of the member's interest shall have no right to participate in the management of the business and affairs of the company or to become a member. The transferee shall only be entitled to receive the share of profits or other compensation by way of income and the return of contributions, to which that member would otherwise be entitled.

Section 124 - Dissolution.

(a) A company organized under this act shall be dissolved upon the occurrence of any of the following events:

(i) When the period fixed for the duration of the company shall expire;

(ii) By the unanimous written agreement of all members; or

(iii) Upon the death, retirement, resignation, expulsion, bankruptcy, dissolution of a member or occurrence of any other event which terminates the continued membership of a member in the company, unless the business of the company is continued by the consent of all the remaining members or pursuant to a right to do so stated in the articles of organization or operating agreement of the company.

(b) As soon as possible following the occurrence of any of the events specified in this section effecting the dissolution of the company, the company shall execute a statement of intent to dissolve in such form as shall be prescribed by the Secretary of the Tribe.

Section 125 - Filing of Statement of Intent to Dissolve. One (1) original and one (1) exact or conformed copy of the statement of intent to dissolve shall be delivered to the Secretary of the Tribe. If the Secretary of the Tribe finds that such statement conforms to law, he/she shall, when all fees and license taxes have been paid as are by law prescribed:

(a) Endorse on each original and exact or conformed copy the word "Filed" and the month, day and year of the filing thereof;

(b) File the original in his/her office;

(c) Return the exact or conformed copy to the company or its representative.

Section 126 - Effect of Filing of Dissolving Statement. Upon the filing by the Secretary of the Tribe of a statement of intent to dissolve, the company shall cease to carry on its business except insofar as may be necessary for the winding up of its business, but its separate existence shall continue until a certificate of dissolution has been issued by the Secretary of the Tribe or until a decree dissolving the company has been entered by a court of competent jurisdiction.

Section 127 - Distribution of Assets Upon Dissolution.

(a) In settling accounts after dissolution, the liabilities of the company shall be entitled to payment in the following order:

(i) Those to creditors, in the order of priority as provided by law, except those to members of the company on account of their contributions;

(ii) Those to members of the company in respect of their share of the profits and other compensation by way of income on their contributions; and

(iii) Those to members of the company in respect of their contributions to capital.

(b) Subject to any statement in the operating agreement, members share in the company assets in respect to their claims for capital and in respect to their claims for profits or for compensation by way of income on their contributions, respectively, in proportion to the respective amounts of the claims.

Section 128 - Articles of Dissolution. When all debts, liabilities and obligations have been paid and discharged or adequate provision has been made therefore and all of the remaining property and assets have been distributed to the members, articles of dissolution shall be delivered to the Secretary of the Tribe. The statement shall set forth:

(a) The name of the company;

(b) That the Secretary of the Tribe has theretofore filed a statement of intent to dissolve the company and the date on which such statement was filed;

(c) That all debts, obligations and liabilities have been paid and discharged or that adequate provision has been made therefore;

(d) That all the remaining property and assets have been distributed among its members in accordance with their respective rights and interests;

(e) That there are no suits pending against the company in

any court or that adequate provision has been made for the satisfaction of any judgement, order or decree which may be entered against it in any pending suit.

Section 129 - Filing of Articles of Dissolution.

(a) One (1) original and one (1) exact or conformed copy of such articles of dissolution shall be delivered to the Secretary of the Tribe. If the Secretary of the Tribe finds that such articles of dissolution conform to law, he/she shall when all fees and license taxes have been paid as are by law prescribed:

- (i) Endorse on each original and exact or conformed copy the word "Filed" and the month, day and year of the filing thereof;
- (ii) File the original in his/her office;
- (iii) Issue a certificate of dissolution to which he/she shall affix the exact or conformed copy.

(b) The certificate of dissolution, together with the exact or conformed copy of the articles of dissolution affixed thereto by the Secretary of the Tribe shall be returned to the representative of the dissolved company. Upon the issuance of such certificate of dissolution the existence of the company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in this act. The manager or managers in office at the time of dissolution, or the survivors of them, shall thereafter be trustees for the members and creditors of the dissolved company and as such shall have authority to distribute any company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of such dissolved company.

Section 130 - Cancellation of Certificate of Organization; Amendment of Articles of Organization.

(a) The certificate of organization shall be cancelled by the Secretary of the Tribe upon issuance of the certificate of dissolution.

(b) The articles of organization shall be amended when:

- (i) There is a change in the name of the company;

- (ii) There is a change in the stated purpose of the business of the company;
- (iii) There is a false or erroneous statement in the articles of organization;
- (iv) There is a change in the time as stated in the articles of organization for the dissolution of the company;
- (v) A time is fixed for the dissolution of the company if no time is specified in the articles of organization; or
- (vi) The members desire to make a change in any other statement in the articles of organization in order that it shall accurately represent the agreement between them.

(c) The form and time for evidencing an amendment to the articles of organization of a company shall be promulgated by the Secretary of the Tribe and shall contain such terms and provisions, consistent with this act as shall be determined by the Secretary of the Tribe. One (1) original and one (1) exact or conformed copy of the amendment shall be forwarded to the Secretary of the Tribe for filing, accompanied by the requisite filing fee.

(d) Any amendment to the articles of organization shall be adopted in accordance with the operating agreement or with the consent of all members.

Section 131 - Parties to Actions. A member of a company is not a proper party to proceedings by or against a company, except where the object is to enforce a member's right against or liability to the company.

Section 132 - Waiver of Notice. When, under the provisions of this act or under the provisions of the articles of organization or operating agreement of a company, notice is required to be given to a member or to a manager of a company having a manager or managers, a waiver in writing signed by the person or persons entitled to the notice, whether before or after the time stated in it, is equivalent to the giving of notice.

Section 133 - Fees; Sanctions for False Filings.

(a) The Secretary of the Tribe shall charge and collect for:

(i) Issuing certificates of organization; certificates of continuance for a foreign company; or certificates of merger, a fee of fifteen dollars (\$15.00);

(ii) For amending the articles of organization or filing articles of correction, a fee of fifteen dollars (\$15.00);

(iii) An annual fee of fifteen dollars (\$15.00), due and payable January 2 of each year. This fee is delinquent if not paid by February 1 and an addition to the fee shall then be due of fifteen dollars (\$15.00);

(iv) Filing, service and copying fees for those services provided by his/her office for which a fee is not otherwise established. A fee shall not exceed the cost of providing the service.

(b) Except for articles of organization, any document to be filed with the Secretary of the Tribe shall be signed by the member, members, manager, managers or other authorized individual as set forth in the operating agreement. A person signing a document, including the articles of organization, which he/she knows is false in any material respect with intent that the document be delivered to the Secretary of the Tribe for filing under this act shall be subject to the following sanctions:

(i) For the first violation, a civil fine of two hundred dollars (\$200.00), payable to the Tribe;

(ii) For any subsequent violation, a civil fine of five hundred dollars (\$500.00) for each violation, payable to the Tribe.

(c) All sanctions described in this act or otherwise provided for or allowed by law are cumulative and not exclusive of any other remedy permitted by law or equity.

Section 134 - Unauthorized Assumption of Powers. All persons who assume to act as a company without authority to do so shall be jointly and severally liable for all debts and liabilities.

Section 135 - Charge for Service of Process. The Secretary of the Tribe shall charge and collect a fee of thirty-five dollars (\$35.00) at the time of any service of process on him/her as resident agent of a company, which may be recovered as taxable

costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action.

Section 136 - Applicability of Provisions to Foreign and Interstate Commerce. The provisions of this act shall apply to commerce with Indian tribes, foreign nations and among the several states only as permitted by law.

Section 137 - Existing Rights and Liabilities. This act does not affect a right accrued or established or any liability or penalty incurred, prior to the effective date of this act.

Section 138 - Secretary of the Tribe Powers. The Secretary of the Tribe has the power reasonably necessary to perform the duties required of him/her by this act. The Secretary of the Tribe may promulgate reasonable rules and regulations necessary to carry out the purposes of this act.

Section 139 - Correcting Filed Document; Articles of Correction.

(a) A company or foreign company may correct a document filed by the Secretary of the Tribe if the document:

- (i) Contains an incorrect statement; or
- (ii) Was defectively executed, attested, sealed, verified or acknowledged.

(b) A document is corrected:

- (i) By preparing articles of correction that:
 - a) Describe the document, including its filing date, or attach a copy of the document to the articles of correction;
 - b) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and
 - c) Correct the incorrect statement or defective execution.
- (ii) By delivering the articles of correction to the Secretary of the Tribe for filing.

Section 140 - Merger.

(a) Pursuant to a written plan of merger, a domestic company may merge with one (1) or more domestic or foreign companies, limited partnerships or corporations if:

(i) The merger is not prohibited by the articles of organization or operating agreement of any domestic company that is a party to the merger, and each domestic company party to the merger approves the plan of merger in accordance with this act and complies with the terms of its articles of organization and operating agreement;

(ii) The merger is permitted by laws under which each foreign company, foreign limited partnership and foreign corporation party to the merger is organized, formed or incorporated, and each such foreign company, limited partnership or corporation complies with those laws in effecting the merger;

(iii) No member of a domestic company that is a party to the merger will, as a result of the merger, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the plan of merger and otherwise consents to becoming personally liable;

(iv) In the case of a merger of a company to which one (1) or more domestic or foreign corporations are parties, a domestic or foreign corporation or company party to the merger is the surviving entity of the merger.

(b) The plan of merger shall set forth:

(i) The name of each domestic or foreign company, limited partnership or corporation planning to merge and the name of the surviving domestic or foreign company, limited partnership or corporation into which each other domestic or foreign company, limited partnership or corporation plans to merge;

(ii) The name of the Tribe or country under whose law each domestic or foreign company, limited partnership or corporation planning to merge is organized, formed or incorporated and the name of the Tribe or country or organization, formation or incorporation of the surviving

domestic or foreign company, limited partnership or corporation;

(iii) The terms and conditions of the merger; and

(iv) The manner and basis of converting the membership interests of each domestic company party to the merger into membership interests, partnership interests, shares, obligations or other securities of the surviving or any other domestic or foreign company, limited partnership or corporation or into cash or other property in whole or in part, and the manner and basis of converting rights to acquire the membership interests of each domestic company party to the merger into rights to acquire membership interests, partnership interests, shares, obligations or other securities of the surviving or any other domestic or foreign company, limited partnership or corporation or into cash or other property in whole or in part.

(c) The plan of merger may set forth:

(i) If a domestic company is to be the surviving entity, amendments to the articles of organization or the operating agreement of that company;

(ii) If the merger is not to be effective upon the issuance of the certificate of merger described in this act by the Secretary of the Tribe, the future effective date or time of the merger; or

(iii) Other provisions relating to the merger.

Section 141 - Approval of Merger by Domestic Company.

(a) Each domestic company that is to be a party to a proposed merger shall approve the proposed merger, unless the articles of organization or the operating agreement of that company provide otherwise, by the unanimous vote of the members of the company. However, a provision of a company's operating agreement purporting to authorize the company to approve a merger by a less than unanimous vote of the members shall be effective to permit approval of a merger by a less than unanimous vote only if either:

(i) The operating agreement included that provision at the time each member who does not vote in favor of the

merger became bound by the operating agreement; or

(ii) The provision was added to the operating agreement through an amendment to which each member who does not vote in favor of the merger specifically consented.

(b) Any plan of merger may provide for the manner, if any, in which the plan may be amended by a domestic company party to the merger at any time before the effective date of the certificate of merger issued by the Secretary of the Tribe for the merger.

(c) If an amendment to a plan of merger is made in accordance with subsection (b) of this section, and articles of merger already have been filed with the Secretary of the Tribe, amended articles of merger shall be filed with the Secretary of the Tribe before the effective date of any certificate of merger issued by the Secretary of the Tribe for the articles of merger which the amended articles are to supersede.

(d) Unless the domestic company's articles of organization or operating agreement or the plan of merger provides otherwise, after the merger has been authorized and at any time before the effective date of the certificate of merger issued by the Secretary of the Tribe for the merger, the merger may be abandoned by majority vote of the members of the domestic company. If articles of merger already have been filed with the Secretary of the Tribe, written notice of abandonment shall be filed with the Secretary of the Tribe before the effective date of the certificate of merger.

Section 142 - Articles of Merger.

(a) After a plan of merger is approved by each domestic or foreign company, limited partnership or corporation party to the merger, the surviving domestic or foreign company, limited partnership or corporation shall file with the Secretary of the Tribe articles of merger setting forth:

(i) The plan of merger;

(ii) The address including street and number, if any, of its principal office under the laws of the jurisdiction in which it was organized, formed or incorporated, if the surviving entity of the merger is a foreign company not registered with the Secretary of the Tribe under this act or

a partnership, corporation or other entity not registered by the Secretary of the Tribe;

(iii) A statement that the plan of merger was adopted by each domestic company party to the merger in accordance with this act.

(b) If a foreign company, limited partnership or corporation is a party to the merger, the articles of merger shall contain a statement that the merger is permitted by the Tribe or country under whose law that company is organized, that limited partnership is formed or that corporation is incorporated and that the foreign company, limited partnership or corporation has complied with that law in effecting the merger.

(c) If the Secretary of the Tribe finds that the articles of merger comply with the requirements of law and that all required fees have been paid, he/she shall issue a certificate of merger. The certificate of merger shall become effective when issued unless the plan of merger specifies a future effective date, in which case the certificate of merger shall be effective on the earlier of:

(i) That date; or

(ii) The date that is fifteen (15) days after the date on which the Secretary of the Tribe issues the certificate of merger.

Section 143 - Effect of Merger. When a merger takes effect:

(a) The separate existence of every domestic company that is a party to the merger except the surviving domestic company, if any, ceases;

(b) The title to all real estate and other property owned by each domestic company party to the merger is vested in the surviving domestic or foreign company, limited partnership or corporation without reversion or impairment;

(c) The surviving domestic or foreign company, limited partnership or corporation obtains all liabilities of each domestic company party to the merger;

(d) A proceeding pending by or against any domestic company

party to the merger may be continued as if the merger had not occurred, or the surviving domestic or foreign company, limited partnership or corporation may be substituted in the proceeding for the domestic company whose existence ceased;

(e) The articles of organization and operating agreement of that company are amended to the extent provided in the plan of merger if a domestic company is the surviving entity of the merger; and

(f) The former holders of membership interests of every domestic company party to the merger are entitled only to the rights provided in the plan of merger.

Section 144 - Articles of Continuance of Foreign Company.

(a) Subject to subsection (d) of this section, any company organized for any purpose except insurance or acting as a financial institution under the laws of any foreign jurisdiction may, if the foreign jurisdiction confirms in writing that the company's domicile has terminated in the foreign jurisdiction, apply to the Secretary of the Tribe for registration under this act. The Secretary of the Tribe may issue a certificate of registration upon receipt of an application supported by articles of continuance as provided by this act together with the statements, information and documents set out in subsection (c) of this section. The certificate of registration may then be issued continuing the foreign company as if it had been organized under this act. The certificate of registration may be subject to any limitation and conditions as may appear proper to the Secretary of the Tribe.

(b) The Secretary of the Tribe shall cause notice of issuance of a certificate of registration to be given forthwith to the proper officer of the foreign jurisdiction in which the company was previously organized.

(c) The articles of continuance filed by a foreign company with the Secretary of the Tribe shall contain:

(i) A certified copy of its original articles of organization and all amendments thereto of its equivalent basic charter;

(ii) The names of the company and the foreign jurisdiction in which it has previously been lawfully organized;

- (iii) The date of organization and the period of duration;
- (iv) Its principal mailing address;
- (v) The name and address of the proposed registered agent on the Reservation;
- (vi) The business purposes which it proposes to pursue on the Reservation;
- (vii) The names and respective business addresses of its members or, if the company has a manager or managers, the names and respective business addresses of the manager or managers;
- (viii) Any additional information concerning capital contributions or financial status as the Secretary of the Tribe deems necessary;
- (ix) A statement that the company will abide by the laws of the Tribe and of the United States;
- (x) Any additional information necessary or appropriate to enable the Secretary of the Tribe to determine whether the company is entitled to a certificate of registration evidencing its authority to transact business on the Reservation;
- (xi) Any additional information permitted in articles of organization under this act.

(d) The application shall be executed by the manager or managers if any or by any member who is authorized to execute the application on behalf of the company and shall be verified by the officer signing the application.

(e) The provisions of the articles of continuance may, without expressly so stating, vary from the provisions of the company's articles of organization or equivalent basic charter or other authorization, if the variation is one which a company organized under this act could effect by way of amendment to its articles of organization. Upon issuance of a certificate of continuance by the Secretary of the Tribe, the articles of continuance shall be deemed to be the articles of organization of

the continued company. The company may elect to incorporate by reference in the articles of continuance its basic charter or other authorization which has been adopted by it in the foreign jurisdiction, in order to permit the same to continue to act as the articles of organization, provided, however, that the basic charter or other authorization shall be deemed amended to the extent necessary to make the same conform to the laws of the Tribe and to the provisions of the articles of continuance.

(f) The existence of any company heretofore or hereafter issued a certificate of continuation under this act shall be deemed to have commenced on the date the company commenced its existence in the jurisdiction in which it was first formed, organized or otherwise came into being. The laws of the Tribe shall apply to a company continuing under this act to the same extent as if it had been organized under the laws of the Tribe from and after the issuance of a certificate of continuation under this act by the Secretary of the Tribe. When a foreign company is continued under this act, the continuance shall not affect the ownership of its property, or its liability for any existing obligations, causes of action, claims, pending or threatened prosecution or civil or administration actions, convictions, rulings, orders or judgments.

(g) Continuance under this act does not deprive a member of any right or privilege that he claims under, or relieve any member of any liability in respect of, his membership.

Section 145 - Assignments. Notwithstanding any other provision contained in this act, the interest of a member of a company is assignable in whole or in part except as provided in the operating agreement. The assignee of a member's interest in a company shall have no rights other than those permitted to assignees under Section 123 of this act except as provided in the operating agreement or as permitted by the unanimous consent of the members of the company other than the member assigning his/her interest in the company.

Section 146 - Certification as Indian Owned Business. Any company formed under this act, or under any other law of the Tribe, may request and obtain from the Secretary of the Tribe annual certification as an Indian owned business on the condition that (a) said company is not in default or violation of any requirement of this act at the time certification is requested and (b) said company provides the Secretary with reasonable proof of Indian ownership. The certificate may state the percentage of

Indian ownership in the company. No filing, processing or other fee shall be charged to any company requesting certification under this section. Any company so certified shall inform the Secretary, in writing, of any change of ownership effecting its certificate within ten (10) days of the same. The Secretary shall revoke the certification of any such company no longer qualified as an Indian owned business.

Section 147 - Severability. If any provision of this Code, any regulations promulgated hereunder, or any application hereof is held invalid by a court of competent jurisdiction, the valid provisions of this Code and the valid regulations shall continue in full force and effect.

Section 148 - Effective Date. The provisions of this Code shall be effective on the date of adoption certified by the Northern Arapaho Business Council.

History: 1997. Title 2. The Business Organizations Code was enacted by the Northern Arapaho Tribe by resolution of the Northern Arapaho Business Council dated April 8, 1997, Resolution No. 1997-7765. The Code was re-codified as Title 2. of the Northern Arapaho Code (N.A.C.) without substantive change on June 6, 2000, by NABC Resolution No. 2000-8291. Section 133(a)(i), (ii), and (iii) were amended to reduce the fees in those subsections from \$500 (certificate of organization), \$35 (amendment to certificate), and \$100 (annual fee), respectively, to \$15 each, May 4, 2006, by NABC Resolution No. 2006-9071.