

LUMBEE TRIBE OF NORTH CAROLINA

CLLO -2013-1105-02

Date: November 5, 2013

“AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY”

WHEREAS, the Lumbee Tribe of North Carolina is a recognized Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina (hereinafter “Constitution”) and its inherent powers of self-government; and

WHEREAS, Article VII, Section 1 of the Constitution delegates legislative power to enact ordinances to the Tribal Council; and

WHEREAS, Article IX, Section 2 of the Constitution states that the rule of law to be applied in the Supreme Court of the Lumbee Tribe shall be the will of the people as expressed in the Lumbee Constitution, tribal ordinances, and Lumbee custom; and

WHEREAS, Article III, Section 1 of the Constitution states in part that the powers not delegated herein are reserved by the general membership of the Tribe; and

WHEREAS, Article III, Section 3 of the Constitution states that the powers delegated to the legislative, executive, and judicial branches, except as expressly provided in this Constitution, shall be separate and distinct and no branch shall exercise the powers delegated herein to another branch; and

WHEREAS, Article IV, Section 1 of the Constitution states that the power to recall any elected official of the Lumbee Tribe of North Carolina who is in the second calendar year or later in his or her term is specifically reserved for the general membership of the Tribe; and

WHEREAS, the Constitution specifically states that a Tribal Council member can be removed by the Tribal Council for being absent for more than three (3) consecutive regularly scheduled meetings of the Council or by recall of the tribal membership; and

WHEREAS, the Constitution does not grant the Supreme Court of the Lumbee Tribe the authority to remove duly elected tribal government officials, thus reserving the removal of such elected officials to the tribal membership, except where expressly provided in the Constitution; and

WHEREAS, the Constitution specifically provides that a member of the Lumbee Tribe of North Carolina can run for election to the Tribal Council when at the commencement of the term of office for which the member stands for election is: a) over the age of twenty-one (21); b) has maintained their principal place of residence in the particular council district for which the member stands for election no less than the preceding one (1) year; and c) compliance with the felony conviction ordinance; and

WHEREAS, Article II, Section 5 of the Constitution states that the Tribal Council shall have authority to enact such tribal ordinances governing tribal membership; and

WHEREAS, the Supreme Court of the Lumbee Tribe has attempted to invent an additional method to remove a duly elected official from office by finding that the duly elected official violated a Court order; and

WHEREAS, the Supreme Court of the Lumbee Tribe, as a sanction for violating a Court order, has attempted to prohibit a member of the Lumbee Tribe of North Carolina from running for any future tribal elections and has suggested that it has the authority to remove a tribal member from the tribal rolls of the Lumbee Tribe and prohibit that tribal member from receiving any tribal benefits; and

WHEREAS, the Supreme Court of the Lumbee Tribe has attempted to legislate from the bench by creating possible sanctions for contempt, which is clearly the authority of the legislative branch; and

THEREFORE, the Tribal Council of the Lumbee Tribe of North Carolina hereby enacts the following **“ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY.”**

SECTION 1: PURPOSE

The purpose of this ordinance is to invalidate actions recently taken by the Supreme Court of the Lumbee Tribe whereby the Supreme Court of the Lumbee Tribe has ignored the clear language of the Lumbee Constitution regarding distribution of powers and has attempted to create tribal law through judicial rulings.

SECTION 2: PROHIBITION ON JUDICIAL “BENCH LEGISLATION”

The authority of the Judicial Branch shall be limited to those powers enumerated in the Constitution. Those constitutional powers shall not be construed to permit officials, judges, and justices of the Judiciary to create laws by and through judicial rulings. Those “possible sanctions” for contempt of a Court’s order created by the Supreme Court of the Lumbee Tribe are hereby null and void.

SECTION 3: PROHIBITION ON REMOVAL OF ELECTED OFFICIALS BY JUDICIAL ACTION

The Judiciary may in no way construe its constitutional powers to include the power to remove elected officials from office. Removal of elected officials from office shall be limited solely to the methods of removal provided for in the Constitution: removal by recall, which is applicable to any elected official, and removal for three (3) consecutive absences from a regularly scheduled Tribal Council meeting, which is specifically applicable to elected tribal council members. Any attempts by the Judiciary to remove elected officials from office, absent the requisite conditions for removal enumerated in the Constitution, made prior to enactment of this law are hereby disavowed and deemed null and void.

SECTION 4: PROHIBITION OF REMOVAL OF TRIBAL MEMBER FROM THE TRIBAL ROLLS

The Judiciary may in no way construe its constitutional powers to include the power to remove a tribal member from the tribal rolls of the Lumbee Tribe of North Carolina or preclude said tribal member from receiving the benefits of tribal membership. Any attempt by the Judiciary to remove a tribal member from the tribal rolls of the Lumbee Tribe of North Carolina is hereby null and void.

SECTION 5: PROHIBITION OF DISQUALIFYING A TRIBAL MEMBER FROM RUNNING FOR A TRIBAL ELECTED OFFICE

The Judiciary may in no way construe its constitutional powers to include precluding a Lumbee tribal member from the privilege of running for an elected office when said tribal member is otherwise eligible pursuant to the requirements of the Lumbee Constitution.

CERTIFICATION

THIS "AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY". CLL0-2013-1105-02, ADOPTED AT A MEETING OF THE TWENTY-ONE (21) MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 15 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 7TH DAY OF NOVEMBER, 2013 BY A VOTE OF 11 YES, 3 NO, AND 6 ABSTENTION(S).

ATTEST CHARLES BULLARD
Vice Chairperson, Tribal Council of the Lumbee Tribe of North Carolina

ATTEST: LARMARI LOUISE MITCHELL
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

PAUL BROOKS
Chairman, Lumbee Tribe of North Carolina
Date

POSTING

This CLL0-2013-1105-02 "AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY", duly posted on this the ____ day of _____, 2013.

ATTEST: CYNTHIA L. HUNT
Tribal Clerk, Lumbee Tribe of North Carolina

Date

*This is a copy of
the ordinance
Louise took from my
office; had Edward
to print it out; never
had signed or posted
copy; not the doc;
copy is printed @ wts.*

ROLL CALL VOTE RESULTS TO ADOPT

CLL0-2013-1105-02 “AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY”

11 YES, 3 NO, ABSTENSION(S)

District 1:	Evan Davenport	RECUSED
District 2:	Terry Hunt	NO
	Lamari Louise Mitchell	YES
District 3:	Lesaundri Hunt	YES
District 4:	Jonathan Locklear	EXCUSED
District 5:	Bobby Oxendine	YES
	Charles Bullard	YES
District 6:	Larry Anthony Chavis	YES
	McDuffie Cummings	YES
District 7:	Robert Chavis	YES
	Larry Campbell	ABSENT
	Terry Campbell	YES
District 8:	Steve Sampson	ABSENT
District 9:	Anita Hammonds Blanks	NO
District 10:	Terry Collins	EXCUSED
District 11:	Linda Revels	NO
District 12:	Danita Locklear	YES
	Walter Lowery	YES
District 13:	William Maiden	YES
District 14:	Homer Fields	EXCUSED


ATTEST: MCDUFFIE CUMMINGS
Treasurer, Tribal Council of the Lumbee Tribe of North Carolina

1-20-14
Date


ATTEST: LARMARI LOUISE MITCHELL
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

1-6-14
Date

CERTIFICATION OF VETO OVERRIDE

THIS VETO OVERRIDE OF “CLLO-2013-1105-02 AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY” WAS CERTIFIED AT A MEETING OF THE 21 SEATED MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 16 MEMBERS WERE PRESENT , CONSTITUTING A QUORUM, THIS 6TH DAY OF JANUARY, 2014 BY A VOTE OF 14 FOR, 1 AGAINST, ____ ABSTENTION(S).

ROLL CALL VOTE RESULTS TO ADOPT “CLLO-2013-1105-02 AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY” 14 FOR, 1 AGAINST, ____ ABSTENTION(S)

District 1:	Evan Davenport	RECUSED
District 2:	Terry Hunt	ABSENT
	Larmari Louise Mitchell	YES
District 3:	Lesaundri Hunt	YES
District 4:	Jonathan Locklear	ABSENT
District 5:	Bobby Oxendine	YES
	Charles Bullard	YES-TELECONFERENCE
District 6:	Larry Anthony Chavis	YES
	McDuffie Cummings	YES
District 7:	Robert Chavis	YES
	Larry Campbell	YES
	Terry Campbell	YES
District 8:	Steve Sampson	ABSENT
District 9:	Anita Hammonds Blanks	NO
District 10:	Terry Collins	YES
District 11:	Linda Revels	ABSENT
District 12:	Danita Locklear	YES
	Walter Lowery	YES
District 13:	William Maiden	YES
District 14:	Homer Fields	YES