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10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Short title.

13 This act shall be known and may be cited as the Native
14 American Recognition Act.

15 Section 2. Legislative intent.

16 The General Assembly finds and declares as follows:

17 (1) This Commonwealth has been historically the homeland
18 of diverse groups.

19 (2) The Commonwealth has a duty and responsibility to
20 foster awareness, understanding and appreciation of the many
21 and varied contributions to the quality of life made by its
22 diverse ethnic communities, including Native Americans.

23 (3) It is in the public interest for the Commonwealth
24 and its citizens to identify, conserve and perpetuate the
25 diverse cultural and ethnic heritage of this Commonwealth and
26 to promote greater awareness and understanding for the
27 education, inspiration and the general public welfare of all
28 the people, including future generations.

29 (4) It is in the shared interest of the Commonwealth and
30 groups in Pennsylvania to avoid misrepresentation of Native

1 American identity, culture and heritage.

2 (5) It is in the shared interest of the Commonwealth and
3 groups in this Commonwealth to establish a formal procedure
4 to recognize groups indigenous to Pennsylvania and to certify
5 Native American organizations.

6 (6) Recognition and certification will enable the
7 Commonwealth to provide access to Federal programs to
8 eligible groups.

9 Section 3. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Band." A sociopolitical division of a tribe, separated from
14 the tribe by historical events or geographical, political or
15 similar causes.

16 "Certification." The process by which the Indian status of a
17 Native American organization is approved by the commission for a
18 period of two years subject to biennial recertification.

19 "Clan." A number of Native Americans related by bloodline
20 descent.

21 "Commission." The Commission on Native American Affairs.

22 "Committee." A recognition advisory committee established in
23 section 11.

24 "Delegate." An individual who serves on a committee.

25 "Department." The Department of Community and Economic
26 Development of the Commonwealth.

27 "Group." A band, clan, tribe or nation.

28 "Indian organization." An organization of members.

29 "Indigenous to Pennsylvania." Having ancestors who inhabited
30 one or more specific areas within this Commonwealth before 1790.

1 "Members." Those individuals who have been determined by a
2 group to be its members according to criteria established by the
3 group.

4 "Nation." A distinct group of Native Americans, separated by
5 other groups by its own language, history, sacred places and
6 rituals, and rooted in and part of the land out of which it
7 grew.

8 "Native American." Any individual or group that is, or has
9 its members descended from, a group which inhabited North
10 America before European contact in 1492.

11 "Recognition." The process by which the Pennsylvania Indian
12 status of a Native American band, clan or tribe is granted by
13 the Governor.

14 "Tribe." A separate and distinct community of Native
15 Americans generally related by blood, marriage or adoption, with
16 common cultural ties and interests which differentiate members
17 from nonmembers.

18 Section 4. Commission.

19 (a) Establishment.--The Commission on Native American
20 Affairs is established in the department.

21 (b) Commissioners.--

22 (1) The commission shall consist of seven commissioners,
23 appointed by the Governor, with the consent of a majority of
24 the members elected to the Senate.

25 (2) Four commissioners must be Native Americans.

26 (3) If a commissioner is sentenced for an offense graded
27 above a summary offense, the commissioner shall forfeit
28 office.

29 (4) A commissioner shall serve a term of six years or
30 until a successor takes office. A commissioner may serve

1 unlimited terms.

2 (5) If a commissioner leaves office, a replacement shall
3 be appointed and approved under paragraphs (1) and (2) for
4 the remainder of the term.

5 (c) Quorum.--Four commissioners constitute a quorum.

6 (d) Officers.--The commission shall elect a chairperson from
7 among the commissioners.

8 (e) Compensation.--Commissioners shall serve without
9 compensation but shall be reimbursed for actual and necessary
10 expenses.

11 (f) Support.--The department shall provide staff and support
12 services for the commission.

13 (g) Powers and duties.--The commission has the following
14 powers and duties:

15 (1) Administer this act.

16 (2) Promulgate regulations to implement this act.

17 Section 5. Eligibility to petition.

18 (a) Recognition.--A group may apply to the commission for
19 recognition if the group believes itself to be:

20 (1) a Native American band, clan, tribe or nation; and

21 (2) indigenous to Pennsylvania.

22 (b) Certification.--A group may apply to the commission for
23 certification.

24 Section 6. Recognition criteria.

25 The commission may recommend that an eligible petitioning
26 group be recognized if the petitioning group establishes all of
27 the following:

28 (1) The group:

29 (i) has been identified as Native American from

30 before 1790 until the present; and

1 (ii) has been part of a continuous Native American
2 community from before 1790 until the present.

3 (2) The members of the group are descendants from a
4 tribe which:

5 (i) existed before 1790;

6 (ii) is indigenous to Pennsylvania;

7 (iii) inhabited a specific area in Pennsylvania
8 before 1790; and

9 (iv) is composed principally of individuals who do
10 not belong to any other acknowledged or recognized group
11 and is not a splinter faction which has separated from a
12 group currently recognized.

13 Section 7. Application process for recognition.

14 (a) Compliance with regulations.--A petition for recognition
15 must comply with regulations promulgated by the commission.

16 (b) Documentation.--To document that the petitioning group
17 meets the established criteria, the petitioning group must
18 submit the following:

19 (1) Historical documents showing from before 1790 until
20 the present, two or more of the following:

21 (i) Long-standing relationships of the group with
22 the government of the Commonwealth or the United States
23 based on identification of the group or the group's
24 members as Native American.

25 (ii) Repeated dealings of the group with a county or
26 other local government in a relationship based on the
27 identification of the group or group's members as Native
28 Americans.

29 (iii) Repeated dealings of the group with other
30 federally or State recognized groups or national Native

1 American organizations in a relationship based on
2 identification of the group as Native American.

3 (iv) Identification of the group as Native American
4 by anthropologists, historians, genealogists or other
5 scholars.

6 (v) Repeated identification of the group or group's
7 members as Native American in official government
8 records, church or school records, medical records,
9 Bibles and other family records, newspapers, books,
10 photographs or oral histories.

11 (vi) Documents identifying the name of the group or
12 other term recognizing the group as Native American with
13 an approximate location in this Commonwealth from before
14 1790 until the present.

15 (2) Documentation of membership criteria of the group
16 which addresses all of the following:

17 (i) A list of membership criteria established by the
18 group.

19 (ii) A statement of the membership procedures
20 adopted by the group.

21 (iii) A list of all individuals included on the
22 group's current and previous rolls and the county in
23 which each resides.

24 (c) Other evidence.--The petitioner may submit any other
25 evidence recognizing individuals as members of the group. This
26 subsection includes:

27 (1) Affidavits from federally or State recognized tribal
28 elders, tribal leaders or tribal officials recognizing
29 individuals as members of the group.

30 (2) Affidavits from individuals attesting to the fact

1 that individuals have lived as members of the group.

2 (3) Documentation that individuals have participated in
3 programs available only to members of the group.

4 (d) Personal information confidential.--To protect the
5 confidential nature of this documentation, the commission shall
6 deny inspection or copying of any part of the documentation that
7 contains personal information relating to an individual.

8 Section 8. Certification criteria.

9 The commission shall certify an organization as a
10 Pennsylvania Native American organization if the applicant
11 demonstrates that it meets all of the following criteria:

12 (1) The organization consists solely of members.

13 (2) The organization is incorporated in this
14 Commonwealth.

15 (3) Fifty-one percent or more of the organization's
16 board belong to federally or state recognized tribes.

17 (4) Fifty-one percent or more of the organization's
18 membership are Native Americans.

19 (5) The organization has existed as an incorporated
20 organization for a minimum of two years.

21 Section 9. Application process for certification.

22 (a) Compliance with regulations.--A petition for
23 certification must comply with regulations promulgated by the
24 commission.

25 (b) Documentation.--To document that the petitioning
26 organization meets the established criteria, the petitioning
27 group must submit the following:

28 (1) Evidence of incorporated status in this
29 Commonwealth.

30 (2) A copy of the organization's bylaws.

1 (3) Evidence that 51% or more of its board belong to
2 federally or State recognized tribes.

3 (4) Evidence that 51% or more of the organization's
4 membership are Native Americans.

5 (c) Duration of certification.--Certification of Native
6 American organization status shall be in effect for a period of
7 two years. Organizations may reapply to renew their
8 certification.

9 Section 10. Notice of filing.

10 Upon receipt of a complete application for recognition or
11 certification, including payment of any required fees, the
12 commission shall publish a notice of filing of the petition in
13 the Pennsylvania Bulletin. Persons or groups wishing to support
14 or challenge a petition must provide written comments within 30
15 days of the filing of the notice in the Pennsylvania Bulletin.

16 Section 11. Recognition advisory committee.

17 (a) Convening of committee.--The commission shall convene a
18 separate recognition advisory committee for each petition
19 requesting recognition.

20 (b) Role and responsibilities of committee.--The committee
21 has the following powers and duties:

22 (1) Review the petition for recognition to determine if
23 any additional information is needed from the applicant
24 before determination of the petition can be finalized.

25 (2) Make recommendations for or against recognition.

26 (c) Role of Native American commissioner.--A Native American
27 commissioner on the commission has the following function with
28 respect to the committee:

29 (1) To serve as the chairperson of the committee.

30 (2) To call all meetings for petition reviews to order.

1 (3) To be a nonvoting delegate of the committee.

2 (4) To transmit all recommendations of the committee to
3 the commission.

4 (d) Composition of committee.--The committee shall consist
5 of five voting delegates who, appointed by the commission shall
6 appoint the following delegates:

7 (1) Two Native Americans from different Federal or State
8 recognized groups, other than the petitioning group.

9 (2) One individual with demonstrated expertise in
10 genealogy and if possible, in American Indian genealogy. If
11 possible, this delegate must be a Native American.

12 (3) Two individuals qualified in anthropology,
13 ethnohistory or related fields. If possible, these delegates
14 must be Native Americans.

15 (e) Conflict of interest.--A delegate or the Native American
16 Commissioner may not participate in any deliberations with
17 respect to a petition made by a petitioning group of which the
18 delegate or the commissioner is a member.

19 (f) Compensation.--Delegates shall serve without salary or
20 compensation but shall be reimbursed for actual and necessary
21 expenses incurred while performing official functions required
22 by this act, in accordance with procedures established by the
23 Executive Board.

24 Section 12. Processing petitions.

25 (a) Acceptance by commission.--The commission shall accept
26 for review all complete petitions. A petition may not be
27 considered complete until the commission has received payment of
28 required fees and all information requested in the petition form
29 or required by this act.

30 (b) Notice to group.--After a petition is received, the

1 commission shall notify the petitioning group in writing:

2 (1) that the petition is complete; or

3 (2) that the petition is incomplete and what additional
4 information is required to complete the petition.

5 (c) Failure to complete petition.--If the petitioning group
6 fails to complete the petition within one year after notice is
7 mailed to the petitioning group that the petition is not
8 complete, the petition shall be deemed withdrawn and the
9 commission shall notify the petitioning group.

10 (d) Additional period to complete petition.--If the
11 petitioning group during the one-year period requires additional
12 time to complete the petition and provides reasonable
13 justification, the commission may grant one additional period of
14 up to one year for the petitioning group to complete the
15 petition.

16 (e) Referral of petition to committee.--After the commission
17 determines the petition is complete, the commission shall refer
18 the petition to the committee.

19 (f) Preliminary review.--Within 25 days after referral under
20 subsection (e), the committee shall review the documentation
21 submitted for the petition and may, through the commission,
22 request the petitioning group to submit any specific additional
23 documentation necessary to determine whether a petitioning group
24 meets the recognition criteria of this act.

25 (g) Completion of review.--After the commission notifies the
26 petitioning group that all documentation requested has been
27 received, the committee shall complete review of the petition
28 and advise the commission whether the petitioning group meets
29 the recognition criteria of this act. In advising the commission
30 whether a petition meets the recognition criteria of this act,

1 the committee shall do all of the following:

2 (1) Consider the petition, all factual or legal
3 submissions in support of or in opposition to the petition,
4 and the petitioning group's written response.

5 (2) Use to the maximum extent practicable the
6 information and sources available to it, including
7 individuals not on the committee who have knowledge or
8 expertise with Federal or other state Indian tribe
9 recognition procedures or an understanding of the history of
10 Native Americans in this Commonwealth.

11 Section 13. Determination by commission.

12 (a) Review of committee recommendation.--The commission
13 shall review the committee's recommendation and determine
14 whether the petition meets the criteria set forth in section 6.

15 (b) Recognition criteria established.--If the commission
16 determines that the petitioning group meets the recognition
17 criteria of this act, the commission shall submit to the
18 Governor a determination of findings and request that the
19 petitioning group be recognized.

20 (c) Inadequate information or documentation.--If the
21 commission determines that the information or documentation
22 submitted in support of the petition is not adequate to
23 establish that the petitioning group meets the recognition
24 criteria of this act, then the commission shall notify the
25 petitioning group of its determination. The petitioning group
26 may request reconsideration.

27 Section 14. Reconsideration of commission determination.

28 (a) Procedure for taking appeal.--Upon receipt of a
29 determination that the criteria for recognition have not been
30 met, the petitioning group may appeal for a reconsideration by

1 the commission. The petitioning group must file a letter of
2 intent within 30 days of receipt of the commission's
3 determination and must submit additional documentation within 90
4 days.

5 (b) Appointment of review panel.--After receiving a request
6 for review, the commission shall appoint a three-individual
7 panel to review the commission's determinations and all the
8 evidence submitted in support of or in opposition to the
9 petition. The panel shall include at least one commissioner and
10 one delegate, who together shall nominate the third individual
11 to the commission for appointment.

12 (c) Report of panel.--The panel shall report its findings
13 and recommendations to the commission within 60 days after
14 expiration of the 90-day appeal period. If the appeal panel
15 concludes that the commission failed to adequately consider any
16 evidence submitted and that the evidence if adequately
17 considered may reverse the commission's determination, the
18 appeal panel shall notify the commission to reconsider its
19 previous determination. Failure to act within the time specified
20 in this subsection shall be deemed a notification to reconsider.

21 (d) Action by commission.--The commission may either:

22 (1) affirm its original finding and promptly notify the
23 petitioning group; or

24 (2) submit to the Governor its reconsidered
25 determination and recommendation for recognition.

26 (e) Notice to petitioning group.--The commission shall
27 promptly notify the petitioning group of the commission's
28 recommendation and final determination. The commission's
29 determination under subsection (d) is subject to 2 Pa.C.s. Ch. 7
30 Subch. A (relating to judicial review of Commonwealth agency

1 action).

2 Section 15. Governor's action on recognition recommendation.

3 (a) Concurrence with request for recognition.--If the
4 Governor concurs with a request for recognition by the
5 commission, the Governor may issue an executive order to
6 recognize the Pennsylvania Indian status of the petitioning
7 group. The commission shall promptly notify appropriate
8 governmental agencies and national and State Native American
9 organizations of the executive order.

10 (b) Nonconcurrence with request for recognition.--If the
11 Governor does not concur with a request for formal recognition
12 by the commission, the Governor shall notify the commission of
13 the reasons and the commission shall promptly notify the
14 petitioning group.

15 Section 16. Effects of recognition.

16 An executive order issued by the Governor under section 15
17 (relating to governor's action on recognition recommendation)
18 shall not do any of the following:

19 (1) Create rights to land.

20 (2) Create rights or entitlements.

21 (3) Impair valid or existing rights, benefits or
22 entitlements of any Native Americans residing in this
23 Commonwealth.

24 (4) Impair existing judicial rulings of the Commonwealth
25 regarding Native Americans indigenous to this Commonwealth.

26 Section 17. Fees.

27 (a) Establishment.--Fees required under this act shall be
28 set by the commission and published as a notice in the
29 Pennsylvania Bulletin. Fees shall be set by the commission in
30 order to offset costs necessary to administer the provisions of

1 this act and shall be nonrefundable.

2 (b) Time for payment.--Payment of fee as set by the
3 commission must be received at the time of filing the petition
4 for recognition, certification or recertification.

5 (c) Waiver of fee.--The commission may upon request of a
6 petitioning group waive the petition fee, in full or in part, if
7 it determines that payment of the fee will create financial
8 hardship for the petitioning group.

9 Section 18. Penalty.

10 (a) Offense created.--In any matter relating to a petition
11 under this act, a person commits a misdemeanor if the person:

12 (1) Knowingly and intentionally falsifies or conceals a
13 material fact.

14 (2) Makes a false, fictitious, fraudulent statement or
15 representation.

16 (3) Makes or uses a writing or document with knowledge
17 that the writing or document contains false, fictitious or
18 fraudulent statements or entries.

19 (b) Penalty.--A person who violates subsection (a) commits a
20 summary offense.

21 Section 19. Appropriation.

22 The sum of \$, or as much thereof as may be necessary,
23 is hereby appropriated to the Department of Community and
24 Economic Development for the fiscal year July 1, 2007, to June
25 30, 2008, to carry out the provisions of this act.

26 Section 20. Effective date.

27 This act shall take effect in 60 days.