

RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION

- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS, Article VI, Section 5(j) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to protect and preserve the property and natural resources of the Tribes; and
- WHEREAS, The Three Affiliated Tribes were initially recognized to have retained the inherent sovereign power to regulate the descent and distribution of the lands of their members; and
- WHEREAS, Such power of the Tribes was, however, subsequently preempted by the General Allotment Act of 1887, 24 Stat. 389, special allotment acts relating to the Fort Berthold Reservation and the Act of February 14, 1923, 25 U.S.C. §335, extending the provisions of the General Allotment Act to lands purchased for and taken in trust for Indians under authority of an act of Congress; and
- WHEREAS, By the Act of January 12, 1983, 96 Stat. 2517, as amended by the Act of October 30, 1984, 98 Stat. 3171 and cited as the "Indian Land Consolidation Act," the United States Congress granted the authority to each Indian tribe, acting through its respective governing body and with the approval of the Secretary of the Interior, to adopt its own code of laws to govern descent and distribution of trust or restricted lands within the tribe's reservation or otherwise subject to the tribe's jurisdiction, and may provide that nonmembers of the tribe and non-Indians shall not be entitled to receive by devise or descent any interest or trust or restricted lands within the tribe's reservation or otherwise subject to the tribe's jurisdiction, with certain express provisos or conditions; and
- WHEREAS, The Tribal Business Council of the Three Affiliated Tribes has deemed that it would clearly be in the best interests of the Tribes and of their enrolled members to exercise such authority as authorized by the Indian Land Consolidation Act, with the intent and for the purpose of abating and

moderating the progressive loss of trust and restricted lands of the Fort Berthold Reservation set aside by the United States Congress for the benefit of the enrolled members of the Tribes; and

WHEREAS, The Code of Laws of the Three Affiliated Tribes includes certain provisions, entitled "Chapter 14, Heirship and Probate," which govern the descent and distribution of all non-trust and non-restricted real and personal property of the enrolled members of the Tribes and the Tribal Business Council has determined that it would be appropriate to supplement said Chapter 14 of the Code of Laws with the legislative provisions cited hereinbelow and adopted pursuant to the authority granted by the Indian Land Consolidation Act;

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes, pursuant to the authority granted by the Indian Land Consolidation Act (25 U.S.C. § 2201 et seq.), hereby formally approves and adopts the following legislative provisions, which provisions shall be designated as Section 13 of Chapter 14 of the Code of Laws of the Three Affiliated Tribes and entitled "DESCENT AND DISTRIBUTION OF ALLOTTED TRUST AND RESTRICTED LANDS:"

No interests in lands situated within the exterior boundaries of the Fort Berthold Indian Reservation and held in trust or in restricted status by the United States for the benefit of enrolled members of the Three Affiliated Tribes shall be subject to devise or descent to nonmembers of the Three Affiliated Tribes or to non-Indians; provided, however, that:

- (a) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children may elect to receive a life estate in as much of the trust or restricted lands as such person or persons would have been entitled to take in the absence of this restriction on eligibility for inheritance and the remainder shall vest in the Indians or Tribal members who would have been heirs in the absence of a qualified person taking a life estate;

(b) if an intestate Indian decedent has no heir to whom interest in trust or restricted lands may pass, such interests shall escheat to the Three Affiliated Tribes; subject to any non-Indian or nonmember spouse and/or children's rights as described in Paragraph (a) of this Section;

(c) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such inheritance by reason of this Section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the Three Affiliated Tribes acquire such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death; provided, however, that any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests. Any ineligible devisee shall also have the right to renounce his or her devise in favor of a person or persons who are eligible to inherit.

(d) The right to receive a life estate under the provisions of this Section shall be limited to the following individuals:

(1) a spouse and/or children who, if they had been eligible, would have inherited an ownership interest 10 per centum or more of the tract of land; or

(2) a spouse and/or children who occupied the tract as a home at the time of the decedent's death.

BE IT FURTHER RESOLVED, That the above-cited legislative provisions shall become effective immediately.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 11 members of whom 7 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 8 day of October, 1986; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 8 day of October, 1986.

John Grayson
Secretary, Tribal Business Council

ATTEST:

Alyce Spotted Bear
Chairman, Tribal Business Council