

Oneida Nation

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Oneida, WI 54155

BC Resolution # 01-22-20-B Real Property Law Emergency Amendments

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Real Property law ("the Law") was adopted by the Oneida Business through resolution BC-5-29-96-A and amended by resolutions BC-3-01-06-D, BC-04-28-10-E, BC-02-25-15-C, BC-05-13-15-B and BC-02-08-17-A, BC-05-09-18-A; and
- WHEREAS,** the Law provides regulations and procedures for the transfer, control and management of the territory within the Reservation and all Tribal land; to integrate these regulations and procedures with the real property laws and practices of other federal and state sovereigns which may hold jurisdiction within the Reservation; and to establish licensing and certification requirements for the Nation's employees dealing with real property transactions; and
- WHEREAS,** the Law provides that the Oneida Land Commission shall approve or deny all acquisitions of Tribal land, and that Land Management shall process land acquisition transactions as approved by the Oneida Land Commission; and
- WHEREAS,** the Law does not delegate rulemaking authority to the Oneida Land Commission or Land Management to develop rules addressing land acquisitions; and
- WHEREAS,** the Administrative Rulemaking law provides that any entity of the Nation that has been granted rulemaking authority by a law of the Nation may promulgate rules interpreting the provisions of a law enforced or administered by it, provided that the rule does not exceed the rulemaking authority granted under the law for which the rule is being promulgated; and

- WHEREAS,** the Oneida Land Commission and Land Management desire to develop a rule under the Law to address the acquisition of land, but the lack of a delegation of authority to develop rules regarding land acquisitions means the process of administrative rulemaking as provided by the Administrative Rulemaking law cannot be used by the Oneida Land Commission or Land Management for this issue; and
- WHEREAS,** an emergency amendment to the Law to provide a delegation of rulemaking authority to address land acquisitions is being sought in an effort to ensure transparency, opportunity for community input, and oversight that the administrative rulemaking process provides; and
- WHEREAS,** the delegation of rulemaking authority is also being sought to mirror and be consistent with rules for the Homeownership through Independent Purchase (HIP) Program and the Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) Program currently being developed by the Oneida Land Commission and Land Management under the Leasing law; and
- WHEREAS,** the HIP and THRIFTT programs rely upon the acquisition power and processing of the Oneida Land Commission and Land Management, so since the acquisition component is an essential part of the process for HIP and THRIFTT, it is desired that the land acquisition process also be codified as a rule; and
- WHEREAS,** the emergency amendment to the Law adds a provision which provides that the Comprehensive Housing Division, Oneida Land Commission, and Land Management are delegated rulemaking authority as needed to exercise the authority granted and manage the responsibilities bestowed upon each area as identified in this law; and
- WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and
- WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act; and
- WHEREAS,** the emergency adoption of these amendments to the Law are necessary for the preservation of the general welfare of the Reservation population in order to ensure that homeownership and land acquisition strategies related to the HIP and THRIFTT programs are not jeopardized by allowing immediate updates to the program processing and required component that authorizes land acquisitions; and
- WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this amendment would be contrary to public interest; and

WHEREAS, the Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation; and

NOW THEREFORE BE IT RESOLVED, that the emergency amendments to the Real Property law are hereby adopted on an emergency basis and shall become effective immediately.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 8 members were present at a meeting duly called, noticed and held on the 22nd day of January, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 7 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."