

## AN ACT

To regulate banking on Indian lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “Indian Bank Regulatory Act”.*

## FINDINGS

Sec. 2. The Congress finds that –

- (1) numerous Indian tribes have become engaged in or have licensed banking activities on Indian lands as a means of generating tribal governmental revenue, pursuing economic development, and accessing the capital markets;
- (2) Federal courts have held that Tribal governments have wide ranging civil regulatory jurisdictions over their internal economies, contracts, and commercial relations;
- (3) State governments appropriately lack jurisdiction over Indian Commerce, in accordance with the Commerce Clause of the United States Constitution;
- (4) Existing Federal law does not provide clear standards or regulations for the conduct of banking on Indian lands;
- (5) A principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal governance; and
- (6) Indian tribes have the exclusive right to regulate banking activity on Indian lands if the banking activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such banking activity.

## DECLARATION OF POLICY

Sec. 3. The purpose of this Act is –

- (1) to provide a statutory basis for the operation of banking institutions and services by Indian tribes, or Indian-owned enterprises licensed by

a federally recognized tribe, as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

- (2) to provide a statutory basis for the regulation of banking by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the banking operation, and to assure that banking is conducted fairly and honestly by both the operator and players; and
- (3) to declare that the establishment of independent Federal regulatory authority for banking on Indian lands, the establishment of Federal standards for banking on Indian lands, and the establishment of a National Indian Banking Commission are necessary to meet congressional concerns regarding banking and to protect such banking as a means of generating tribal development.

## DEFINITIONS

Sec. 4. For purposes of this Act —

- (1) The term "Attorney General" means the Attorney General of the United States.
- (2) The term "Chairman" means the Chairman of the National Indian Banking Commission.
- (3) The term "Commission" means the National Indian Banking Commission established pursuant to section 5 of this Act.
- (4) The term "Indian lands" means—
  - (A) all lands within the limits of any Indian reservation;
  - (B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power; and
  - (C) any lands protected, reserved, or restricted in any way by Treaty, statute, or force of law;
  - (D) any lands not formally ceded or surrendered by an Indian Tribe holding bona fide aboriginal title to such lands.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which —

- (A) is listed on the federal register as a recognized tribe, or is otherwise recognized by the Secretary of the Interior as an Indian tribe, band, nation, or community of Indians;
- (B) is recognized as an Alaska Native Village by the Secretary of the Interior;
- (C) is recognized by the Secretary of the Interior as constituting an instrumentality governed by the Native Hawaiian people, or bands thereof;
- (D) is recognized by a State of the United States as constituting an Indian tribe, band, or community under, or congruent with, its laws; or
- (E) is recognized as a First Nations government or a Nation of Indians by the Parliament of Canada, the Minister of Crown-Indigenous Relations, or relevant Ministries of the Government of Canada, or is a band of Indians under the definitions of the Indian Act, Chapter 27 of the Statutes of Canada.

(6) The term "class I banking" means:

(i) lending —

- (I) including consumer lending, mortgage lending, automotive lending, short-term lending, commercial lending, construction bonding or other forms of bonding, or any other form of lending;

(ii) savings —

- (I) the provision of savings accounts, the acceptance of deposits at rates of interest, the provision and sale of savings bonds, and the provision and sale of investment savings accounts;

(iii) insurance —

- (I) including the provision and sale of consumer, commercial, financial, or institutional insurance products and coverages of any sort.

(iii) professional services –

(I) including financial planning, accounting, management, private equity, law, realty, and consulting of any sort.

(7) The term "class II banking" means—

(i) investment banking —

(I) including the purchase, sale, trade, or provision of collateralized debt and structured securities of any type, public or private;

(II) including the purchase, sale, trade, provision, or financing of privately held equities in enterprises and investment vehicles of any type; and

(III) including the venture financing of entrepreneurship, regardless of the structure, governance, or jurisdiction of any investment vehicle;

(ii) capital markets —

(I) including the capacity to buy, sell, issue, or otherwise structure sovereign debt obligations, or any other investment or financing obligations, with any other party regardless of jurisdiction;

(II) including the accumulation and reinvestment of sovereign wealth;

(III) including the issuance of sovereign debt on behalf of tribal sovereigns;

(iii) commodities and derivatives —

(I) including the purchase, sale, or trade of physical commodities of any type;

(II) including the purchase, sale, trade, or provision of derivative securities of any type other than cryptocurrencies;

(8) The term "class III banking" means all forms of banking that are not class I banking or class II banking, including but not limited to:

- (i) digital currencies and cryptocurrencies –
  - (I) including the provision, sale, and trade of any electronic or digital units of value, excepting those that function as non-fungible tokens;
- (ii) exchanges –
  - (I) including the operation of exchanges of any sort, including but not limited to currency, commodities, debt, equity, derivatives, or financial instruments.

(9) The term "Secretary" means the Secretary of the Interior.

#### NATIONAL INDIAN BANKING COMMISSION

SEC. 5. (a) There is established within the Department of the Interior a Commission to be known as the National Indian Banking Commission. The Commission shall be composed of five (5) full-time members who shall be appointed by the President of the United States, with the advice and consent of the Senate, on staggered five-year terms. The Attorney General shall conduct a background investigation on any person considered for appointment to the Commission.

(b) The Secretary shall publish in the Federal Register the name and other information the Secretary deems pertinent regarding a nominee for membership on the Commission and shall allow a period of not less than thirty (30) days for receipt of public comment.

(c) Not more than two members of the Commission shall be members of the same political party. At least three (3) members of the Commission shall be enrolled members of any Indian tribe. Except where provided for elsewhere in this Section, the term of office of the members of the Commission shall be five (5) years:

(1) Of the initial members of the Commission—

- (i) the Chairman shall have a term of office of five (5) years;
- (ii) one associate member shall have a term of office of four (4) years;
- (iii) one associate member shall have a term of office of three (3) years;

(iv) one associate member shall have a term of office of two (2) years;

(v) one associate member shall have a term of office of one (1) year.

(d) No individual shall be eligible for any appointment to, or to continue service on, the Commission, who —

(1) has been convicted of a felony or banking offense;

(2) has any management responsibility for any bank or institutional investor; or

(3) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 12 of this Act.

(e) A Commissioner may only be removed from office before the expiration of the term of office of the member by the President for neglect of duty, or malfeasance in office, or for other good cause shown.

(f) Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (e).

(g) Three members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum:

(1) The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(2) The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every 4 months.

(3) The Chairman of the Commission shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(4) The associate members of the Commission shall each be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

#### POWERS OF THE CHAIRMAN

Sec. 6. (a) The Chairman, on behalf of the Commission, shall have power, subject to an appeal to the Commission, to —

(1) issue orders of temporary closure of Class III banking activities as provided in section 14(b);

(2) levy and collect civil fines as provided in section 14(a);

(3) approve tribal ordinances or resolutions regulating class II banking and class III banking as provided in section 11; and

(4) approve management contracts for class II gaming and class III gaming as provided in sections 11(d)(9) and 12.

(b) The Chairman shall have such other powers as may be delegated by the Commission.

#### POWERS OF THE COMMISSION

Sec. 7. (a) The Commission shall have the power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 18;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 14(a);

(3) by an affirmative vote of not less than 3 members, to establish the rate of fees as provided in section 18;

(4) by an affirmative vote of not less than 3 members, to authorize the Chairman to issue subpoenas as provided in section 16; and

(5) by an affirmative vote of not less than 3 members and after a full hearing, to make permanent a temporary order of the Chairman closing a class III banking activity as provided in section 14(b)(2).

(b) The Commission—

(1) shall monitor class III banking conducted on Indian lands on a continuing basis;

(2) shall inspect and examine premises located on Indian lands on which class III gaming is conducted, to the extent deemed necessary;

(3) shall conduct or cause to be conducted such background investigations as may be necessary;

(4) may procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(5) may enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission and, to the extent feasible, contract the enforcement of the Commission's regulations with the Indian tribes;

(6) may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(7) may administer oaths or affirmations to witnesses appearing before the Commission; and

(8) shall promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act.

(c) The Commission shall submit a report with minority views, if any, to the Congress on December 31, 2026, and every two years thereafter. The report shall include information on —

(1) funding, including income and expenses, of the Commission;

(2) recommendations for amendments to the Act; and

(3) any other matter considered appropriate by the Commission.

## COMMISSION STAFFING

SEC. 8. (a) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

(c) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(e) The Secretary or Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

## COMMISSION — ACCESS TO INFORMATION

Sec. 9. The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

## INTERIM AUTHORITY TO REGULATE BANKING

Sec. 10. Notwithstanding any other provision of this Act, the Secretary shall continue to exercise those authorities vested in the Secretary on the day before the date of enactment of this Act relating to supervision of Indian banking until such time as the Commission is organized and

prescribes regulations; and the Secretary shall provide staff and support assistance to facilitate an orderly transition to regulation of Indian banking by the Commission.

## TRIBAL BANKING ORDINANCES

Sec. 11. (a) (1) Class I banking on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

(2) Any class II banking on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

(b) (1) An Indian tribe may engage in, or license and regulate, class II banking on Indian lands within such tribe's jurisdiction, if —

(A) such Indian banking is located within a State that permits such banking for any purpose by any person, organization or entity (and such banking is not otherwise specifically prohibited on Indian lands by Federal law), and

(B) the governing body of the Indian tribe adopts an ordinance, resolution, or charter which is approved by the Chairman.

(C) the governing body of the Indian tribe issues a separate license for each place, facility, or location on Indian lands at which class II banking is conducted.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, or regulation of class II banking on the Indian lands within the tribe's jurisdiction if such ordinance or resolution provides that —

(A) except as provided in paragraph (4), the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any banking activity;

(B) profit distributions to the tribe from any tribal banking activity are not to be used for purposes other than—

(i) to fund tribal government operations, programs, and services;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations;

(v) to help fund operations of local government agencies and services;

(vi) to accumulate, manage, and reinvest sovereign wealth;

(vii) to reinvest in enterprises and ventures owned by the tribe or its members;

(viii) to finance infrastructure of any sort;

(ix) to fund the diplomatic and cultural missions of the tribe;

(x) to advocate for, or to fund advocacy, to benefit the interests of the tribe;

(xi) to fund legal expenses, projects, or programs in defense of the direct, indirect, or tertiary interests of the tribe.

(C) annual outside audits of the banking, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of \$2,225,000 annually (except contracts for professional, legal, or accounting services) relating to such banking shall be subject to such independent audits;

(E) the construction and maintenance of a banking facility, and the operation of that banking is conducted in a manner which adequately protects the environment and the public health and safety; and

(F) there is an adequate system which—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the banking enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the banking enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of banking, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of banking shall not be eligible for employment; and

(III) notification by the Indian tribe to the Commission of the results of such background check before the issuance of any of such licenses.

(3) Profit distributions from any class II banking activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if —

(A) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (2B);

(B) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (2B); and

(C) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may

be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe.

(4)(A) A tribal ordinance or resolution may provide for the licensing or regulation of class II banking activities owned by any person or entity other than the Indian tribe and conducted on Indian lands, only if the tribal licensing requirements include the requirements described in the subclauses of subparagraph (B)(i) and are at least as restrictive as those established by State law governing similar banking within the jurisdiction of the State within which such Indian lands are located. No person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II banking activity conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

(B)(i) The provisions of subparagraph (A) of this paragraph and the provisions of subparagraphs (A) and (B) of paragraph (2) shall not bar the continued operation of an individually owned class II banking operation that was operating on September 1, 2025, if—

(I) such banking operation is licensed and regulated by an Indian tribe pursuant to an ordinance reviewed and approved by the Commission in accordance with section 13 of the Act,

(II) income to the Indian tribe from such banking activity is used only for the purposes described in paragraph (2)(B) of this subsection,

(III) not less than 60 percent of the profits of the banking operation are distributed as income to the Indian tribe, on an annual basis, and

(IV) the owner of such banking operation pays an appropriate assessment to the National Indian Banking Commission under section 18(a)(1) for regulation of such banking.

(ii) The exemption from the application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the banking activity remains within the same nature and scope as operated on the date of enactment of this Act.

(iii) Within sixty days of the date of enactment of this Act, the Secretary shall prepare a list of each individually owned banking operation to which clause (i) applies and shall publish such list in the Federal Register.

(C) (1) The Commission may consult with appropriate law enforcement officials concerning banking licenses issued by an Indian tribe and shall have thirty days to notify the Indian tribe of any objections to issuance of such license.

(2) If, after the issuance of a banking license by an Indian tribe, reliable information is received from the Commission indicating that a primary management official or key employee does not meet the standard established under subsection (b)(2)(F)(ii), the Indian tribe shall suspend such license and, after notice and hearing, may revoke such license.

(3) Any Indian tribe which operates a class II banking activity and which—

(A) has continuously conducted such activity for a period of not less than one year, including at least one year after the date of the enactment of this Act; and

(B) has otherwise complied with the provisions of this section may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

(A) conducted its banking activity in a manner which—

(i) has resulted in an effective and honest accounting of all revenues;

(ii) has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) has been generally free of evidence of criminal or dishonest activity;

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the banking activity; and

(iii) investigation, enforcement and prosecution of violations of its banking ordinance and regulations; and

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation —

(A) the tribe shall not be subject to the provisions of paragraphs (1), (2), (3), and (4) of section 7(b);

(B) the tribe shall continue to submit an annual independent audit as required by section 11(b)(2)(C) and shall submit to the Commission a complete resume on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 18 in excess of one eighth of 1 percent (0.125%) per annum of total profits.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by majority vote of its members. Class III banking activities shall be lawful on Indian lands only if such activities are —

(A) authorized by an ordinance or resolution that —

(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

(ii) meets the requirements of subsection (b), and

(iii) is approved by the Chairman,

(B) located in a State that permits such banking for any purpose by any person, organization, or entity, and

(C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

(7) (A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III banking activity on Indian lands of the Indian tribe, the governing body of the Indian tribe shall adopt and submit to the Chairman an ordinance or resolution that meets the requirements of subsection (b).

(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

(i) the ordinance or resolution is not adopted in compliance with the governing documents of the Indian tribe, or

(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 12(e)(1)(D). Upon the approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

(C) Effective with the publication under subparagraph (B) of an ordinance or resolution adopted by the governing body of an Indian tribe that has been approved by the Chairman under subparagraph (B), class III banking activity on the Indian lands of the Indian tribe shall be fully subject to the terms and conditions of the Tribal-State compact entered into under paragraph (3) by the Indian tribe that is in effect.

(D) (i) The governing body of an Indian tribe, in its sole discretion and without the approval of the Chairman, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III banking on the Indian lands of the Indian tribe. Such revocation shall render class III banking illegal on the Indian lands of such Indian tribe.

(ii) The Indian tribe shall submit any revocation ordinance or resolution described in clause (i) to the Chairman. The

Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(iii) Notwithstanding any other provision of this subsection—

(I) any person or entity operating a class III banking activity pursuant to this paragraph on the date on which an ordinance or resolution described in clause (i) that revokes authorization for such class III banking activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under clause (ii), continue to operate such activity in conformance with the Tribal-State compact entered into under paragraph (3) that is in effect, and (II) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

(8) (A) Any Indian tribe having jurisdiction over the Indian lands upon which a class III banking activity is being conducted, or is to be conducted, shall request the State in which such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact governing the conduct of class III banking activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

(B) Any State and any Indian tribe may enter into a Tribal-State compact governing banking activities on the Indian lands of the Indian tribe, but such compact shall take effect only when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register.

(C) Any Tribal-State compact negotiated under subparagraph (A) may or may not include provisions relating to —

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

(iv) remedies for breach of contract, loan defaults, or bankruptcies;

(v) standards for the operation of such activity and maintenance of public banking facilities; and

(vi) any other subjects that are directly related to the operation of banking activities.

(9) Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection, nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III banking. No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.

(10) Nothing in this subsection shall impair the right of an Indian tribe to regulate class III banking on its Indian lands concurrently with the State, except to the extent that such regulation is inconsistent with, or less stringent than, the State laws and regulations made applicable by any Tribal-State compact entered into by the Indian tribe under paragraph (3) that is in effect.

(11) The provisions of Federal financial and banking laws of general application shall not apply to any banking conducted under a Tribal-State compact that —

(A) is entered into under paragraph (3) by a State in which banking activities are legal, and

(B) is in effect.

(12) (A) The United States district courts shall have jurisdiction over—

(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a Tribal-State compact under paragraph (3) or to conduct such negotiations in good faith,

(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III banking activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect, and

(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

(B) (i) An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the close of the 180-day period beginning on the date on which the Indian tribe requested the State to enter into negotiations under paragraph (3)(A).

(ii) In any action described in subparagraph (A)(i), upon the introduction of evidence by an Indian tribe that—

(I) a Tribal-State compact has not been entered into under paragraph (3), and

(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith, the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a Tribal-State compact governing the conduct of banking activities,

(iii) If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of banking activities, the court shall order the State and the Indian Tribe to conclude such a compact within a 60-day period. In determining in such an action whether a State has negotiated in good faith, the court—

(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse

economic impacts on existing banking activities,  
and

(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

(iv) If a State and an Indian tribe fail to conclude a Tribal-State compact governing the conduct of banking activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact. The mediator shall select from the two proposed compacts the one which best comports with the terms of this Act and any other applicable Federal law and with the findings and order of the court.

(v) The mediator appointed by the court under clause (iv) shall submit to the State and the Indian tribe the compact selected by the mediator under clause (iv).

(vi) If a State consents to a proposed compact during the 60-day period beginning on the date on which the proposed compact is submitted by the mediator to the State under clause (v), the proposed compact shall be treated as a Tribal-State compact entered into under paragraph (3).

(vii) If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures —

(I) which are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the relevant provisions of the laws of the State, and

(II) under which class III banking may be conducted on the Indian lands over which the Indian tribe has jurisdiction. (8)(A) The Secretary is authorized to approve any Tribal-State compact entered into

between an Indian tribe and a State governing banking on Indian lands of such Indian tribe.

(C) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

(i) any provision of this Act,

(ii) any other provision of Federal law that does not relate to jurisdiction over banking on Indian lands, or

(iii) the trust obligations of the United States to Indians.

(D) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

(E) The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, or considered to have been approved, under this paragraph.

(13) An Indian tribe may enter into a management contract for the operation of a class III banking activity if such contract has been submitted to, and approved by, the Chairman. The Chairman's review and approval of such contract shall be governed by the provisions of subsections (b), (c), (d), (f), (g), and (h) of section 12.

(d) For purposes of this section, by not later than the date that is 90 days after the date on which any tribal banking ordinance or resolution is submitted to the Chairman, the Chairman shall approve such ordinance or resolution if it meets the requirements of this section. Any such ordinance or resolution not acted upon at the end of that 90-day period shall be considered to have been approved by the Chairman, but only to the extent such ordinance or resolution is consistent with the provisions of this Act.

## MANAGEMENT CONTRACTS

Sec. 12. (a)(1) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a class II banking activity that the Indian tribe may engage in under section X, but, before approving such contract, the Chairman shall require and obtain the following information:

(A) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock;

(B) a description of any previous experience that each person listed pursuant to subparagraph (A) has had with other banking contracts with Indian tribes or with the banking industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to banking; and

(C) a complete financial statement of each person listed pursuant to subparagraph (A).

(2) Any person listed pursuant to paragraph (I)(A) shall be required to respond to such written or oral questions that the Chairman may propound in accordance with his responsibilities under this section.

(3) For purposes of this Act, any reference to the management contract described in paragraph (1) shall be considered to include all collateral agreements to such contract that relate to the banking activity.

(b) The Chairman may approve any management contract entered into pursuant to this section only if he determines that it provides at least—

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a quarterly basis;

(2) for access to the daily operations of the banking to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal banking activity;

(3) for an agreed ceiling for the repayment of development and construction costs;

(4) for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a

contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular banking activity require the additional time; and

(5) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(c)(1) The Chairman may approve a management contract providing for a fee based upon a percentage of the net profits of a tribal banking activity if the Chairman determines that such percentage-fee is reasonable in light of surrounding circumstances. Except as otherwise provided in this subsection, such fee shall not exceed 10 percent of the net profits.

(2) Upon the request of an Indian tribe, the Chairman may approve a management contract providing for a fee based upon a percentage of the net profits of a tribal banking activity that exceeds 1 percent but not 20 percent of the net profits if the Chairman is satisfied that the capital investment required, and income projections, for such tribal banking activity require the additional fee requested by the Indian tribe.

(d) By no later than the date that is 180 days after the date on which a management contract is submitted to the Chairman for approval, the Chairman shall approve or disapprove such contract on its merits. The Chairman may extend the 180-day period by not more than 90 days if the Chairman notifies the Indian tribe in writing of the reason for the extension. The Indian tribe may bring an action in a United States district court to compel action by the Chairman if a contract has not been approved or disapproved within the period required by this subsection.

(e) The Chairman shall not approve any contract if the Chairman determines that—

(1) any person listed pursuant to subsection (a)(1)(A) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or banking offense;

(C) has knowingly and willfully provided materially important false statements or information to the

Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded pursuant to subsection (a)(2); or

(D) has been determined to be a person whose criminal record pose a threat to the public interest or to the effective regulation and control of banking, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of banking or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the banking activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal banking ordinance or resolution adopted and approved pursuant to this Act; or

(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) No management contract for the operation and management of real property a banking activity regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in said contract.

(h) The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), relating to management contracts regulated pursuant to this Act, is hereby transferred to the Commission.

(i) The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in subsection (e) of this section.

## REVIEW OF EXISTING ORDINANCES AND CONTRACTS

Sec. 13. (a) As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to the enactment of this Act, adopted an ordinance or resolution authorizing class II banking or class III banking or entered into a management contract, that such ordinance, resolution, or contract, including all collateral agreements relating to the banking activity, must be submitted for his review within 60 days of such notification. Any activity conducted under such ordinance, resolution, contract, or agreement shall be valid under this Act, or any amendment made by this Act, unless disapproved under this section.

(b) (1) By no later than the date that is 90 days after the date on which an ordinance or resolution authorizing class II banking or class III banking is submitted to the Chairman pursuant to subsection (a), the Chairman shall review such ordinance or resolution to determine if it conforms to the requirements of section 11(b) of this Act.

(2) If the Chairman determines that an ordinance or resolution submitted under subsection (a) conforms to the requirements of section 11(b), the Chairman shall approve it.

(3) If the Chairman determines that an ordinance or resolution submitted under subsection (a) does not conform to the requirements of section 11(b), the Chairman shall provide written notification of necessary modifications to the Indian tribe which shall have not more than 120 days to bring such ordinance or resolution into compliance.

(c) (1) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to subsection (a), the Chairman shall subject such contract to the requirements and process of section 12.

(2) If the Chairman determines that a management contract submitted under subsection (a), and the management contractor under such contract, meet the requirements of section 12, the Chairman shall approve the management contract.

(3) If the Chairman determines that a contract submitted under subsection (a), or the management contractor under a contract submitted under subsection (a), does not meet the requirements of section 12, the Chairman shall provide written notification to the parties to such contract of necessary modifications and the parties shall have not more than 120 days to come into compliance. If a management contract has been approved by the Secretary prior to

the date of enactment of this Act, the parties shall have not more than 180 days after notification of necessary modifications to come into compliance.

## CIVIL PENALTIES

Sec. 14. (a)(1) Subject to such regulations that may be prescribed by the Commission, the Chairman shall have authority to levy and collect appropriate civil fines, not to exceed \$25,000 per violation, against the tribal operator of a banking activity or a management contractor engaged in banking for any violation of any provision of this Act, any regulation prescribed by the Commission pursuant to this Act, or tribal regulations, ordinances, or resolutions approved under section 11 or 13.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing before the Commission on fines levied and collected by the Chairman.

(b) Whenever the Commission has reason to believe that the tribal operator of a banking activity or a management contractor is engaged in activities regulated by this Act, by regulations prescribed under this Act, or by tribal regulations, ordinances, or resolutions, approved under section 11 or 13, that may result in the imposition of a fine under subsection (a)(D), the permanent closure of such game, or the modification or termination of any management contract, the Commission shall provide such tribal operator or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and the action or choice of action being considered by the Commission. The allegation shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

(1) The Chairman shall have power to order temporary closure of a banking activity for substantial violation of the provisions of this Act, of regulations prescribed by the Commission pursuant to this Act, or of tribal regulations, ordinances, or resolutions approved under section 11 or 13 of this Act.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the banking activity or management contractor involved shall have a right to a hearing before the Commission to determine whether such order should be made permanent or dissolved. Not later than sixty days following such hearing, the Commission shall, by a vote of not less than two of its

members, decide whether to order a permanent closure of the banking operation.

(c) A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

(d) Nothing in this Act precludes an Indian tribe from exercising regulatory authority provided under tribal law over a banking establishment within the Indian tribe's jurisdiction if such regulation is not inconsistent with this Act or with any rules or regulations adopted by the Commission.

## JUDICIAL REVIEW

SEC. 15. Decisions made by the Commission pursuant to sections 25 use 2714. 11, 12, 13, and 14 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

## SUBPOENA AND DEPOSITION AUTHORITY

SEC. 16. (a) By a vote of not less than three members, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents as so ordered) and give evidence concerning the matter in question and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

## INVESTIGATIVE POWERS

SEC. 17. (a) Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

(b) The Commission shall, when such information indicates a violation of Federal, State, or tribal statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

(c) The Attorney General shall investigate activities associated with banking authorized by this Act which may be a violation of Federal law.

## COMMISSION FUNDING

SEC. 18. (a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each class II banking activity that is regulated by this Act.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be scaled to the net profits of any subject banking activity —

- (i) no less than 0.05 percent nor more than 0.25 percent of the first \$10,000,000, and
- (ii) no more than 0.5 percent of amounts in excess of the first \$10,000,000, of the gross revenues from each activity regulated by this Act.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed \$500,000 for any single operator of class II banking activities.

(3) The Commission, by a vote of not less than three of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on an annual basis.

(4) For purposes of this section, net profits shall constitute the annual total amount of profits actually distributed by a banking activity or operator.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal the amount of funds derived from assessments authorized by subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 19. (a) Subject to the provisions of section 18, there are hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission.

(b) Notwithstanding the provisions of section 18, there are hereby authorized to be appropriated not to exceed \$10,000,000 to fund the operation of the Commission for each of the fiscal years beginning October 1, 2026, October 1, 2027, and October 1, 2028.

#### BANKING ON LANDS ACQUIRED AFTER ENACTMENT

SEC. 20. (a) Except as provided in subsection (b), physical banking regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless —

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

(2) the Indian tribe has no reservation on the date of enactment of this Act and —

(A) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary; or

(B) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe; or,

(C) such lands are located within an Indian tribe's historic reservation or aboriginal territory; or,

(D) such lands are located in reasonable proximity to the tribe's cultural heritage sites.

(b) (1) Subsection (a) will not apply when—

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a banking establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the banking activity is to be conducted concurs in the Secretary's determination; or

(B) lands are taken into trust as part of—

(i) a settlement of a land claim;

(ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

(iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

(2) Subsection (a) shall not apply to—

(A) banking activities on any lands that are protected by Treaty, or lands upon which Indians have reserved rights, of any sort, through Treaty;

(B) banking activities on any lands under claim or dispute, or lands over which aboriginal title has not been clearly and explicitly extinguished by Congress.

(c) Nothing in Subsection (a) shall be construed to restrict the accessibility of digital banking services, if such operations are hosted on servers that are permanently resident on Indian lands of any sort.

(d) Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(e) (1) The provisions of the Internal Revenue Code concerning the reporting and withholding of taxes with respect to general banking activities shall not apply to Indian banking operations conducted pursuant to this Act or under a Tribal-State compact entered into under section II (d)(3) that is in effect.

(2) All Indian-owned investment vehicles, regardless of structure, shall be considered disregarded entities for tax purposes by the Internal Revenue Code.

(3) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date of enactment of this Act unless such other provision of law specifically cites this subsection.

## SEVERABILITY

SEC. 21. In the event that any section or provision of this Act, or amendment made by this Act, is held invalid, it is the intent of Congress

that the remaining sections or provisions of this Act, and amendments made by this Act, shall continue in full force and effect.