

Cherokee Nation Code Annotated
Title 56: Port Authorities
Chapter 1: General Provisions
§ 9. Powers—Plan for future development
Cite as: 56 CNCA § 9

Subject to the laws of Cherokee Nation and the regulations governing land held in trust status by the United States of America for the benefit of Cherokee Nation, a port authority established by 56 CNCA § 4 shall have full power and authority to:

1. Purchase, construct, reconstruct, sell, lease, operate and otherwise contract concerning docks, wharves, warehouses, piers, and other port, terminal, industrial or transportation facilities within its jurisdiction consistent with the purposes of the port authority, and to make charges for the use thereof;
2. Borrow money from either public or private financial institutions, sources or any agency of Cherokee Nation or of the United States of America, and to issue therefor such notes or other evidence of indebtedness as may be required and to mortgage, pledge, or otherwise encumber the assets, other than property held in trust status, of the authority as security therefor;
3. Apply for, receive, and participate in any grants from private sources, the State of Oklahoma or from the United States of America;
4. Straighten, deepen, improve, construct, reconstruct or extend any canal, channel, river, stream, basin or other watercourse or way which may be necessary or proper in the development of the facilities of such port;
5. Acquire, own, hold, sell, lease, operate or otherwise contract concerning real or personal property for the authorized purposes of the port authority:
 - a. Leases, subleases, assignments and contracts concerning real property held in trust status by the United States for the benefit of Cherokee Nation are subject to federal regulations and approval from the Secretary of the Interior;
 - b. Amendments and assignments of leases and subleases concerning real property held in trust status by the United States for the benefit of Cherokee Nation are subject to federal regulations and approval from the Secretary of the Interior;
 - c. The duration of leases concerning real property held in trust status is subject to federal regulations and the laws of Cherokee Nation.

6. Acquire, own, maintain, sell, or lease such land within its jurisdiction as it may deem desirable for the development, planning, construction, operation, or leasing of land or completed industrial facilities for industrial use which exercise of such authorization is hereby consistent with federal regulations and the laws of Cherokee Nation and declared to be for the benefit of Cherokee Nation;

7. Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and to establish, operate, and maintain such foreign trade zones;

8. Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for the construction or the efficient operations of any facility of the port authority and included in its official plan, if funds equal to the appraised value of the property to be acquired as the result of such proceedings shall be on hand and available for such purposes, except that:

a. Nothing contained in 56 CNCA §§ 1 to 16, inclusive, shall authorize a port authority to take or disturb property or facilities belonging to any public corporations, tribal corporations, public utility, tribal utility, or common carrier, which property or facilities are necessary and convenient in the operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, tribal corporation, public utility, tribal utility or common carrier for the payment of compensation, if any, at the sole cost of the port authority, provided that:

i. If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or tribal utility or common carrier to compete in its original area of operation;

ii. If any restoration or duplication made hereunder shall involve a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in subsection (C) of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility, tribal utility, or common carrier;

iii. Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority;

b. Nothing contained in 56 CNCA §§ 1 to 16, inclusive, shall authorize a port authority to take or disturb property held in trust status by the United States for the benefit of Cherokee Nation;

9. Maintain such funds, as it deems necessary;
10. Direct its agents or employees, when properly identified in writing, and after at least five (5) days' written notice, to enter upon lands within the confines of its jurisdiction to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;
11. Subject to the laws of Cherokee Nation and federal regulations, sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority;
12. Promote, advertise, and publicize the port and its facilities; provide traffic information and rate information to shippers and shipping interests; appear before rate-making authorities to represent and promote the interests of the port;
13. Repay grants or loans made before the effective date of this act where the funds have been expended for a proper purpose of the authority as originally authorized.

The Board of Directors of the port authority shall prepare or otherwise make provision for the preparation of a plan for the future development, construction, and improvement of the port and its facilities. The plan shall include maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority. The Board of Directors shall file five (5) copies of the plan with the Office of the Principal Chief, the Secretary of State and Secretary of Commerce and Industry of Cherokee Nation. The plan shall be available for inspection at their office by all persons interested. The plan shall fix a time and place for a public hearing of all objections to said plan, which shall be not less than thirty (30) nor more than sixty (60) days after the last submission of said notice. Any interested person may file written objections to such plan, provided such objections are filed with the Secretary of the Board of Directors at his office not less than five (5) days before the date fixed for said hearing. After said hearing the Board of Directors may adopt such plan with any modifications or amendments thereto as the official plan of the port authority.

Historical Data

LA 5-98, eff. February 9, 1998. Amended LA 12-04, eff. April 19, 2004.