

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Treasurer to Issue a Transaction Privilege Tax License to
Francisco Enterprises, Inc.

RESOLUTION NO. 15-283

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "exercise**
2 **the inherent powers of the Tohono O'odham Nation by providing laws,**
3 **ordinances or resolutions: to govern the conduct of members of the Tohono**
4 **O'odham Nation and other persons within its jurisdiction" and "to levy duties,**
5 **fees, taxes and assessments on any person, corporation or association residing**
6 **or doing business within the Tohono O'odham Nation" (Constitution of the**
7 **Tohono O'odham Nation, Article VI, Section 1(c)(1) and 1(d)(4)); and**

8 **WHEREAS, the Nation's Transaction Privilege Taxes law and Tobacco Tax Ordinance are**
9 **codified within Title 22 of the Tohono O'odham Code (T.O.C.) and are vital to**
10 **exercising the Nation's police power for the protection of the public welfare,**
11 **health, peace and morals, as well the Nation's ability to fund necessary and**
12 **ordinary governmental expenses; and**

13 **WHEREAS, Francisco Enterprises, Inc. has been operating Chico's Smoke Shop under**
14 **Transaction Privilege Tax license #1007-505, which expired on July 15, 2015; and**

15 **WHEREAS, 22 T.O.C. Ch. 2, Section 4(B) provides that all persons engaging or continuing in**
16 **business on the Tohono O'odham Nation shall have a valid Transaction Privilege**
17 **Tax license, and that such person shall not engage or continue in business until**
18 **he has obtained or renewed a privilege license; and**

19 **WHEREAS, 22 T.O.C. Ch. 2, Section 23(A)(1) makes it unlawful for any person to knowingly**
20 **engage in business without the required license; and**

21 **WHEREAS, 22 T.O.C. Ch. 2, Section 4(C)(1) directs the Treasurer to issue a Transaction**
22 **Privilege Tax license when the applicant is not in arrears in payment of any tax**
23 **imposed by Title 22 of the Tohono O'odham Code; and**

24 **WHEREAS, 22 T.O.C. Ch. 2, Section 4(B) also provides that a Transaction Privilege Tax license**
25 **is valid for a period of five years; and**

26 **WHEREAS, Francisco Enterprises, Inc. applied for renewal of Transaction Privilege Tax**
27 **license #1007-505 prior to its expiration date, but it is more than \$700,000 in**
28 **arrears for tax year 2014; and owes penalties exceeding \$3.6 million, which have**
29 **been accruing since 2011; and**

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1 **WHEREAS, the Transaction Privilege Taxes law does not vest the Treasurer with discretion**
2 **to issue a Transaction Privilege Tax license when the applicant is in arrears,**
3 **and, as a result, Chico's Smoke Shop has not been operating since the close of**
4 **business on July 15, 2015, and the Treasurer has taken possession of the**
5 **business's inventory pursuant to the Nation's tax lien arising under 22 T.O.C. Ch.**
6 **4, Section 4102(B); and**

7 **WHEREAS, prior to the cessation of business, Francisco Enterprises, Inc. was remitting**
8 **approximately \$166,000.00 per month in Tobacco Tax to the Nation, and wished**
9 **to continue doing business on the Nation; and**

10 **WHEREAS, the Nation desires the outstanding tax debt to be satisfied by Francisco**
11 **Enterprises, Inc. within a reasonable period of time, and desires Francisco**
12 **Enterprises, Inc. to enter into a binding payment schedule to satisfy the**
13 **outstanding tax debt prior to a five-year renewal of Transaction Privilege Tax**
14 **license #1007-505.**

15 **NOW, THEREFORE, BE IT RESOLVED that, notwithstanding anything to the contrary within 22**
16 **T.O.C. Chapter 2 or Chapter 4, the Tohono O'odham Legislative Council**
17 **authorizes the Treasurer to issue a temporary Transaction Privilege Tax license**
18 **to Francisco Enterprises, Inc. for a 90-day period after Francisco Enterprises**
19 **executes a binding agreement with the Nation to fully pay its tax arrears and to**
20 **keep its current tax payments up to date; provided that the Treasurer may renew**
21 **license #1007-505 after Francisco Enterprises executes a binding agreement**
22 **with the Nation to pay assessed penalties and the agreement is approved by**
23 **Legislative Council resolution.**

24 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 20TH**
25 **day of JULY, 2015 at a meeting at which a quorum was present with a vote of 3,015.3 FOR; -0-**
26 **AGAINST; -0- NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by**
27 **Article VI, Section 1(c)(1) and (d)(4) of the Constitution of the Tohono O'odham Nation, adopted**
28 **by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy**
29 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the**
30 **Act of June 18, 1934 (48 Stat.984).**
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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

20 day of July, 2015

ATTEST:



Evonne Wilson, Legislative Secretary

20 day of July, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 20 day of July, 2015 at 4:45 o'clock, p.m., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

APPROVED

DISAPPROVED

on the 20th day of July, 2015

at 4:47 o'clock, p.m.



EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 21 day of
July, 2015, at 11:14 o'clock, a.m.



Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING THE TREASURER TO ISSUE A TRANSACTION PRIVILEGE TAX LICENSE TO FRANCISCO ENTERPRISES, INC.

Moved: COUNCILWOMAN BARBARA HAVIER

SECOND: COUNCILWOMAN ETHEL GARCIA

DATE: JULY 20, 2015

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.1	1. FRANCES MIGUEL (Roberta E. Harvey)	183.55	X			
	2. VERNON J. SMITH (Gloria Zazueta)	183.55	X			X
CHUKUT KUK 331.9	1. ETHEL GARCIA (Marlakay K. Henry)	165.95	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	165.95	X			
GUACHI 265.1	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.55	X			
	2. LORETTA LEWIS ()	132.55	X			
GU VO 249.6	1. GRACE MANUEL (Dallas Lewis)	124.8	X			
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	124.8	X			
HICKIWAN 204.9	1. LOUIS R. LOPEZ (Shirley Molina)	102.45	X			
	2. SANDRA ORTEGA ()	102.45	X			X
PISINEMO 220.0	1. CHESTER ANTONE (Tony Murrietta)	110.0	X			
	2. VACANT ()	110.0	X			X
SAN LUCY 222.9	1. DIANA MANUEL ()	111.45	X			
	2. JANA MONTANA (Gloria Ramirez)	111.45	X			X
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III (Gene Enis)	114.3	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. (Theresa Donahue)	90.3	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.3	X			X
SELLS 513.1	1. ARTHUR WILSON (Beverly Rivas)	256.55	X			
	2. BARBARA HAVIER ()	256.55	X			
SIF OIDAK 231.5	1. LUCINDA ALLEN (Nicholas Jose)	115.75	X			
	2. MARY LOPEZ ()	115.75	X			
TOTAL		3,015.3	3,015.3	-0-	-0-	[05]