



BC ASSEMBLY OF FIRST NATIONS

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BCAFN 18th ANNUAL SPECIAL CHIEFS MEETING
March 9 & 10, 2022
Online via Zoom

Resolution 16/2022

SUBJECT: SUPPORT FOR UPHOLDING FIRST NATIONS JURISDICTION AND SOVEREIGNTY OVER GAMING

MOVED BY: CHIEF JAMES HOBART, SPUZZUM FIRST NATION

SECONDED BY: CHIEF DON TOM, TSARTLIP

DECISION: CARRIED

WHEREAS:

- A. First Nations organizations have been making great strides to strengthen their jurisdiction and sovereignty over gaming, including but not limited to online wagering, land-based casinos, sports betting, and lottery;
- B. First Nations in BC were neither consulted nor were party to the 1985 federal-provincial agreement that transferred the authority to operate gaming facilities to the provinces and retain the associated revenues;
- C. First Nations have been discussing the issue of shared revenues and jurisdiction over gaming in British Columbia since 1993. In 2006, a Steering Committee of the BC First Nations Gaming Revenue Sharing Initiative (the "Steering Committee") was established for the purpose of supporting research and developing a gaming revenue sharing proposal (supported by BCAFN Resolution 12-2008);

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D. the collective efforts of First Nations and the Steering Committee for the Gaming Revenue Sharing Initiative established the BC First Nations Gaming Commission in 2010 (BCAFN Resolution 2010-08), which in addition to securing a portion of Provincial gaming revenue, also serves to promote First Nations jurisdiction over gaming and reconciliation, as well as seeks to enhance gaming opportunities for First Nations in order to increase prosperity, financial security, and employment;

E. various aligned First Nations in BC wish to pursue and promote opportunities to enhance their participation in the conduct and regulation of gaming in Canada, including, but not limited to land-based casinos, online casinos, sports books, and lotteries;

F. the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them

Article 20 (1): Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

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Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions;

- G. the Honourable David Lametti, Minister of Justice and Attorney General of Canada, has reached out to First Nations in Canada to discuss amendments to the Criminal Code which would facilitate First Nations' ownership and operation of gaming under First Nations supervision and regulation;
- H. by BCAFN Resolution 08-2010 "The Establishment of the British Columbia First Nations Gaming Commission", the BCAFN Chiefs-in-Assembly confirmed UBCIC's position that BC's unilateral gaming legislation does not apply to gaming activities on First Nations lands in BC;
- I. in August 2021, the AFN drafted and delivered a proposal to the Department of Justice for engagement with First Nations to make legislative and policy reforms to enhance participation of First Nations in the gaming sector, while respecting the treaty and inherent rights and jurisdictions of First Nations. The AFN anticipates developing an engagement process with Canada to explore, amongst other things, amendments to the Criminal Code; and
- J. the Assembly of First Nations Resolution 14/2021 "Support for Criminal Code Amendments" called for the AFN Chiefs-in-Assembly to support amendments to the Criminal Code of Canada and any other laws that recognize the full jurisdiction of First Nations over gaming.

THEREFORE BE IT RESOLVED THAT:

- 1. the BCAFN Chiefs-in-Assembly fully supports First Nations in British Columbia pursuing reconciliation through amendments to the Criminal Code, and any other laws of Canada that recognize the rights and full jurisdiction of First Nations in respect of the ownership, operation, and regulation of gaming activities and gaming facilities in Canada;

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2. the BCAFN Chiefs-in-Assembly directs the Regional Chief and staff to advocate that any amendments to the Criminal Code of Canada require a full in-depth consultation process with the impacted First Nations Title and Rights holders; and
3. the BCAFN Chiefs-in-Assembly directs the Regional Chief to work with the First Nations Gaming Commission, interested First Nation communities, and other relevant First Nation territorial organizations to engage with the Minister of Justice and Attorney General to secure full recognition of First Nations jurisdiction over gaming, including establishing the in-depth consultation processes required for First Nations to engage in decisions pertaining to gaming policies and legislation.

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