

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0001-22_

SPONSOR: Eugene Tso

TITLE: An Action Relating to an Emergency; Approving Waivers of the Land User Consent Requirements Within the Navajo Nation's Homesite Lease Regulations, Resolution No. RDCO-74-16, so that Homesite Lease Applicants can Expedite Their Homesite Lease Applications During this State of Emergency Due to the COVID-19 Virus; Waivers to be for a Limited Time; and Compensation and Due Process Pursuant to 16 N.N.C. §§ 1402 et seq. Shall be Afforded to Land Users Who Have Not Consented to the Use of Their Navajo Land for Homesite Leases

Date posted: January 05, 2022 at 5:18PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.

LEGISLATIVE SUMMARY SHEET

Tracking No. 0001-22

DATE: December 22, 2021

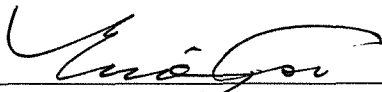
TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY; APPROVING WAIVERS OF THE LAND USER CONSENT REQUIREMENTS WITHIN THE NAVAJO NATION'S HOMESITE LEASE REGULATIONS, RESOLUTION NO. RDCO-74-16, SO THAT HOMESITE LEASE APPLICANTS CAN EXPEDITE THEIR HOMESITE LEASE APPLICATIONS DURING THIS STATE OF EMERGENCY DUE TO THE COVID-19 VIRUS; WAIVERS TO BE FOR A LIMITED TIME; AND COMPENSATION AND DUE PROCESS PURSUANT TO 16 N.N.C §§ 1401 *ET SEQ.* SHALL BE AFFORDED TO LAND USERS WHO HAVE NOT CONSENTED TO THE USE OF THEIR NAVAJO LAND FOR HOMESITE LEASES

PURPOSE: This resolution, if approved, will waive grazing permittee consent requirements for homesite lease applications until the COVID-19 State of Emergency is lifted. Grazing permittees who do not consent will be compensated.

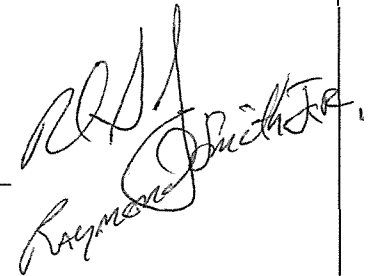
This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Fourth Year, 2022

INTRODUCED BY



(Prime Sponsor)


Raymond Smith Jr.

TRACKING NO. 0001-22

AN ACTION

**RELATING TO AN EMERGENCY; APPROVING WAIVERS OF THE LAND
USER CONSENT REQUIRMENTS WITHIN THE NAVAJO NATION'S
HOMESITE LEASE REGULATIONS, RESOLUTION NO. RDCO-74-16, SO
THAT HOMESITE LEASE APPLICANTS CAN EXPEDITE THEIR HOMESITE
LEASE APPLICATIONS DURING THIS STATE OF EMERGENCY DUE TO
THE COVID-19 VIRUS; WAIVERS TO BE FOR A LIMITED TIME; AND
COMPENSATION AND DUE PROCESS PURSUANT TO 16 N.N.C §§ 1401 *ET*
SEQ. SHALL BE AFFORDED TO LAND USERS WHO HAVE NOT
CONSENTED TO THE USE OF THEIR NAVAJO LAND FOR HOMESITE
LEASES**

BE IT ENACTED:

Section One. Authority

- A. The Navajo Nation Council is the governing of body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. Pursuant to 2 N.N.C. §164 (A)(16) “[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under

1 Navajo Nation or Federal law, or which directly threaten the sovereignty of the
2 Navajo Nation. Such an emergency matter must arise due to the pressing public
3 need for such resolution(s) and must be a matter requiring final action by the
4 Council.”

5
6 **Section Two. Findings**

- 7 A. The Navajo Nation President issued Executive Order No. 001-20 declaring a state
8 of emergency due to the COVID-19 virus on March 13, 2020.
- 9 B. On March 11, 2020, the Navajo Nation Emergency Management Commission
10 declared a State of Emergency due to the COVID-19 virus. Resolution No. CEM-
11 20-03-11.
- 12 C. The coronavirus pandemic has caused large scale infections and loss of life
13 throughout the world, the United States and the Navajo Nation. As of December
14 15, 2021, the Navajo Nation Health Command Operations Center has confirmed
15 40,615 COVID-19 cases and 1,569 COVID-related deaths on the Navajo Nation.
- 16 D. A home is an important foundation for Navajos and Navajo families. A home
17 provides comfort, safety and security for Navajos, Navajo families, and Navajo
18 communities throughout the Navajo Nation. A home is an integral part of Navajo
19 Fundamental Law, culture, community development, and economic development.
- 20 E. In 2000, the Navajo Nation Trust Land Leasing Act of 2000 (Pub. L. No. 106-568,
21 §§ 1201- 1203, 114 Stat. 2868, 2933 (codified at 25 U.S.C. § 415(e)) was approved
22 by the United States to streamline the leasing process within the Navajo Nation by
23 allowing the Navajo Nation to approve leases without Bureau of Indian Affairs
24 approval.
- 25 F. By Resolution No. RDCO-74-16, attached as **Exhibit A**, the Resources Committee
26 of the Navajo Nation Council approved amendments to the Navajo Nation’s
27 Homesite Lease Regulations based on recommendation from the Navajo Land
28 Department and in accordance with the Navajo Nation Trust Land Leasing Act of
29 2000.
- 30

- 1 G. The current Navajo Nation homesite approval and leasing process is very
2 cumbersome and time consuming. Many Navajo homesite lease applicants have
3 waited years for their homesite leases to be approved by the Navajo Nation.
- 4 H. In this declared State of Emergency due to the COVID-19 virus, there is a need to
5 waive the land user consent requirements within the Navajo Nation's Homesite
6 Lease Regulations, Resolution No. RDCO-74-16.
- 7 I. "The Navajo Tribe has the power to take or authorize the taking of property without
8 the consent of the owners of the property or of any interest therein, provided that
9 the owners are given due process of law and just compensation. *Dennison v.*
10 *Tucson Gas and Electric Co.*, 1 Nav. R. 95 (Nav. Sup. Ct. 1974).
- 11 J. If land user consent requirement within the Navajo Nation's Homesite Lease
12 Regulations is waived, then land users who have not given their consent for the use
13 of Navajo land for homesite leases shall be afforded just compensation and due
14 process pursuant to 16 N.N.C. § 1401 *et seq.* (Compensation for Improvements and
15 Customary Use Rights Upon Adverse Disposition of Land).
- 16

17 **Section Three. Approving Waivers of the Land User Consent Requirements**
18 **Within the Navajo Nation's Homesite Lease Regulations, Resolution No. RDCO-**
19 **74-16**

20 The Navajo Nation hereby approves waivers of land user consent requirements of
21 the Navajo Nation's Homesite Lease Regulations, Resolution No. RDCO-74-16, so
22 that homesite lease applicants can expedite their homesite lease applications during
23 this declared State of Emergency due to the Covid-19 virus.

24

25 **Section Four. 16 N.N.C. §§ 1400 *et seq.* Compensation for Improvements and**
26 **Customary Use Rights Upon Adverse Disposition of Land**

27 The Navajo Nation hereby authorizes the use of 16 N.N.C. §§ 1400 *et seq.* to afford
28 land users who have not given their consent for homesite leases to receive just
29 compensation and due process.

30

1 **Section Five. Effective Date**

2 A. The provisions of this Action shall become effective pursuant to 2 N.N.C. § 221
3 (B).

4 B. The provisions of this Action shall expire when the declared State of
5 Emergency is rescinded, unless otherwise determined by resolution of the
6 Navajo Nation Council.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30