

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H'
FIRST NATIONS GOVERNMENT**

RECALL ACT

KCFNS 18/2011



This law enacted on April 1, 2011

Signed

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Signed

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DEPOSITED IN THE
REGISTRY OF LAWS

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Signature of Clerk

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PREAMBLE

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assert that we have exercised sovereign authority over our lands since time immemorial. Despite the arrival of settlers on our land, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have preserved and protected our traditional territories and we accept the obligations and responsibilities inherent in governing.

It is the desire of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government to govern in a manner that is responsible, transparent, democratic and accountable, blending hereditary and modern-day governing institutions. In doing so, our governing structures honour our past and embrace the future ensuring the continued existence of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as strong political, social and cultural communities that aspire to grow as organized, determined, successful and self-reliant peoples.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations adopt this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Recall Act.

Executive oversight

1.2 The chairperson of the Legislature is responsible for the executive oversight of this Act.

Application

1.3 This Act applies to the members of the Legislature holding an elected office.

Definitions

1.4 In this Act,

“applicant” means an individual who applies for the issuance of a recall petition in accordance with section 2.1;

“elected member of the Legislature” means a member of the Legislature that is elected to that office under the Elections Act;

“proponent” means an applicant who is issued a recall petition under section 2.2;

“recall petition” means the petition for the recall of an elected member of the Legislature under section 2.2.

PART 2 - RECALL PETITION

Application for recall petition

- 2.1**
- (a) An eligible voter may apply under subsection (b) for the issuance of a petition for the recall of an elected member of the Legislature.
 - (b) The application for the issuance of a recall petition must be made to the clerk in the prescribed form and contain the following:
 - (i) the name of the elected member of the Legislature who is the subject of the recall petition;
 - (ii) the name and residential address of the applicant;
 - (iii) a statement, not exceeding 200 words, setting out why, in the opinion of the applicant, the recall of the elected member of the Legislature is warranted;
 - (iv) a solemn declaration by the applicant that he or she is not disqualified under this Act from making the application; and
 - (v) any other prescribed information.
 - (c) The application for the issuance of a recall petition must be accompanied by a processing fee of \$500.
 - (d) No application for the issuance of a recall petition may be made during the 18 months following the general voting day from the last election of that elected member of the Legislature.

Issuance of recall petition

- 2.2**
- (a) If satisfied that the requirements of section 2.1 have been met, the clerk must
 - (i) notify the proponent, the elected member of the Legislature who is the subject of the recall petition and the chairperson of the Legislature by delivering a notice in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law that the application has been approved in principle, and
 - (ii) issue the recall petition in the prescribed form within seven days after notice is given in accordance with paragraph (i).
 - (b) Upon an application receiving approval in principle, that application must be made available by the clerk for inspection by eligible voters at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices during regular office hours.

Appointment of a chief electoral officer

2.3 Upon the issuance of a recall petition, the Legislature must appoint an individual to act as chief electoral officer within 14 days of that approval.

Who may sign a recall petition

- 2.4** (a) In order to sign a recall petition, an individual
- (i) must have been an eligible voter on general voting day for the last election of the elected member of the Legislature who is the subject of the recall petition, and
 - (ii) must be an eligible voter on the date that he or she signs the recall petition.
- (b) An individual may sign any one recall petition only once.
- (c) An individual who signs a recall petition must indicate his or her residential address on that petition.

Who may canvass for signatures

- 2.5** (a) Any eligible voter may canvass for signatures on a recall petition if, before the date on which he or she begins canvassing, the eligible voter has registered his or her name and residential address with the chief electoral officer and submitted a processing fee of \$50 to the clerk.
- (b) An individual must not, directly or indirectly, accept any inducement for canvassing for signatures on a recall petition.
- (c) An individual must not, directly or indirectly, pay, give, lend or procure any inducement for an individual who canvasses for signatures on a recall petition.

Requirements for a recall petition

- 2.6** (a) A recall petition must comply with the following requirements:
- (i) the recall petition must be submitted to the chief electoral officer within 45 days after the date on which the recall petition was issued under section 2.2; and
 - (ii) the recall petition must be signed by more than 65 percent of the eligible voters entitled to sign the recall petition under section 2.4.
- (b) In accordance with section 2.4(c), a signature on the recall petition must be accompanied by the residential address of the individual who signed and must be witnessed by the individual who canvassed that signature.

Time limit for determination

- 2.7** When a recall petition is submitted to the chief electoral officer, he or she must determine within 14 days whether the recall petition meets the requirements of section 2.6.

Result of a successful recall petition

- 2.8** As soon as practicable after making a determination under section 2.7, the chief electoral officer must deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a notice of that determination to the elected member of the Legislature who is the subject of the recall petition, the proponent and to the chairperson of the Legislature.

Review of determination

- 2.9** A person who is affected by a determination of the chief electoral officer under section 2.7 may request within 30 days of the delivery of the notice under section 2.8 a review of that determination under the Administrative Decisions Review Act.

Effect of order following review request

- 2.10** If the Administrative Decisions Review Board, in response to the review request made under section 2.9, orders that the recall petition meets the requirements of section 2.6, the member of the Legislature who is the subject of the recall petition ceases to hold office as of the date of the order made under the Administrative Decisions Review Act and the seat of that member of the Legislature becomes vacant as of that date.

Effect of valid recall petition

- 2.11** If the chief electoral officer determines under section 2.7 that the recall petition meets the requirements of section 2.6 and no review is requested in accordance with section 2.9, the member of the Legislature who is the subject of the recall petition ceases to hold office 30 days after the delivery of the notice under section 2.8 and the seat of that member of the Legislature becomes vacant as of that date.

PART 3 - BY-ELECTION

Election

- 3.1** When the office of an elected member of the Legislature becomes vacant as a result of a recall petition under this Act, a by-election must be held to fill the vacancy in accordance with the Elections Act.

Prohibition on multiple elections

- 3.2** An elected member of the Legislature may only be the subject of a recall petition once during the period between regular elections.

Application of Elections Act

- 3.3** For certainty, the Elections Act applies to a by-election under this Act.

By-election costs

- 3.4** All costs for holding a by-election under section 3.1 are the responsibility of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.

PART 4 - RECALL PETITION FINANCING

Refund of processing fees

- 4.1** The clerk must refund the processing fees submitted under section 2.1(c) or section 2.5(a) if the recall petition results in a by-election under section 3.1.

PART 5 - RECALL PETITION COMMUNICATIONS

Who can advertise a recall

- 5.1** (a) Upon the issuance of a recall petition under section 2.2, the clerk must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law notice of the recall petition.
- (b) Upon the issuance of a recall petition under section 2.2, the proponent may only provide any eligible voter with a notice of the recall petition and the statement required under section 2.1(b)(iii).

What must be advertised

- 5.2** (a) The notice required under section 5.1(a) must set out the name of the member of the Legislature who is the subject of the recall petition, the statement required under section 2.1(b)(iii) and residential address of the proponent.
- (b) A notice provided under section 5.1(b) must include the proponent's name and residential address.

PART 6 - OFFENCES

Signatures on recall petition

- 6.1** (a) A person must not pay, give, lend or procure an inducement for any of the following purposes:
- (i) to induce an individual to sign a recall petition or refrain from signing a recall petition; or
 - (ii) to reward an individual for having signed a recall petition or having refrained from signing a recall petition.
- (b) An individual must not accept an inducement
- (i) to sign a recall petition or refrain from signing a recall petition, or
 - (ii) as a reward for having signed a recall petition or refrained from signing a recall petition.
- (c) A person who contravenes this section commits an offence and is liable, on summary conviction, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding six months.

Intimidation

- 6.2** (a) A person must not intimidate an individual for any of the following purposes:
- (i) to persuade or compel an individual to sign a recall petition or refrain from signing a recall petition; or
 - (ii) to punish an individual for having signed a recall petition or having refrained from signing a recall petition.
- (b) A person must not, by abduction, duress or fraudulent means, do any of the following:
- (i) impede, prevent or otherwise interfere with an individual's right to sign a recall petition; or
 - (ii) compel, persuade or otherwise cause an individual to sign a recall petition or refrain from signing a recall petition.
- (c) A person who contravenes this section commits an offence and is liable, on summary conviction, to the penalties referred to in section 6.1(c).

Wrongful signing and voting

- 6.3** (a) An individual who does any of the following commits an offence:
- (i) signs a recall petition when not entitled to do so;
 - (ii) signs the same recall petition more than once; or
 - (iii) signs a recall petition in the name of another individual.
- (b) An individual who commits an offence under subsection (a) is liable, on summary conviction, to the penalties referred to in section 6.1(c).

Canvassing for signatures

- 6.4** (a) A person who does any of the following commits an offence:
- (i) canvasses for signatures on a recall petition when not entitled to do so;
 - (ii) falsely represents that a document is a recall petition; or
 - (iii) canvasses for signatures on a recall petition during a time period other than that during which the recall petition may be signed.
- (b) A person who contravenes this section commits an offence and is liable, on summary conviction, to the penalties referred to in section 6.1(c).

Offences in relation to false or misleading information

- 6.5** (a) A person who provides false or misleading information when required or authorized by this Act to provide information or makes a false or misleading statement or declaration when required by this Act commits an offence.
- (b) A person who commits an offence under this section is liable, on summary conviction, to the penalties referred to in section 6.1(c).