

**DRAFT CSC, Title 24. Land Management**

**CHAPTER 13**  
**Real Property Security**  
**Instruments Act of 1977**

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**§ 1601. Short title.**

This Chapter is known and may be cited as the "Real Property Security Instruments Act of 1997."

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 1.

**Editor's note:** TDL 27-5 that created this Chapter by adopting the Congress of Micronesia (COM) Real Property Security Instruments Act of 1977 was signed into law by the District Administrator on June 21, 1977.

**§ 1602. Transfers in trust of real property to secure obligations permitted.**

Transfers in trust of any estate in real property may be made to secure the performance of an obligation or the payment of any debt. Real property to secure obligations shall be by deed of trust pursuant to the provisions of this subchapter. Such transfer does not entitle the trustee or beneficiary to the possession of the property, except as herein otherwise provided.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 2.

**§ 1603. Trustee for deeds of trust.**

The trustee for any deed of trust executed on real property in the State of Chuuk ~~Trust Territory~~ may be the housing authority of the District State in which the real property is situated.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 3, modified.

**§ 1604. Writing and recordation required.**

A deed of trust can be created, renewed, modified, or extended only by writing and must be recorded with the land commission of the District State in which the real property is situated.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 4, modified.

**§ 1605. Compliance with Chapter required for foreclosure.**

Foreclosure of a deed of trust shall be only by the exercise of a power of sale in accordance with the provisions of this subchapter. This section does not preclude a court from granting equitable relief other than foreclosure.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 5.

**§ 1606. Power of sale; Authorized.**

Where any transfer in trust of any estate in real property is made to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which such transfer is security.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 6 (1).

**§ 1607. Power of sale; Requisites.**

The power of sale shall not be exercised, however, until:

(1) The trustee or beneficiary shall first file for record with the land commission in the District State in which the real property is situated a notice of default, identifying the deed of trust by stating the name or names of the trustor or trustors and giving the date of recordation and the location where the same is recorded in the records of the District State land commission, and containing a statement that a breach of the obligation for which such transfer in trust in security was made has occurred, and setting forth the nature of such breach and of his election to sell or cause to be sold such property to satisfy the obligation;

(2) a copy of the notice of default and election to sell is personally served or, if personal service is not made despite efforts in good faith, is mailed by registered or certified mail with postage prepaid to the trustor or his successor in interest if such address is known, otherwise to the address of the trust property;

(3) not less than three months shall thereafter elapse; and

(4) after the lapse of the three months, the trustee shall within 60 ~~sixty~~ days thereof give notice of sale, stating the time and place thereof, in the manner, and for a time not less than that, specified in the provisions of this subchapter for exercise of the power of sale in a deed of trust.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 6 (2), modified.

**§ 1608. Power of sale; Eligibility to acquire title to property sold.**

Title to any real property in the State of Chuuk Trust Territory sold pursuant to exercise of power of sale in a deed of trust shall pass only to a citizen of the Federated States of Micronesia Trust Territory or such others as are permitted to hold title to real property in the Federated States of Micronesia Trust Territory under the provisions of this Code.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 6 (3), modified.

**§ 1609. Reinstatement.**

Whenever all or a portion of the principal sum of any obligation secured by deed of trust on real property has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of the trustor to pay in accordance with the terms of such obligation or of such deed of trust, or when the trustor voluntarily conveys the property to the trustee, the trustor, or his successor in interest in the trust property or any part thereof, at any time under such deed of trust, may pay to the beneficiary or his successor in interest the entire amount then due under the terms of such deed of trust and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation and deed of trust, and trustee's or attorney's fees, as may be awarded by the court) and

thereby cure the default theretofore existing. Thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust shall be reinstated and shall be and remain in force and effect as if no such acceleration had occurred.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 7.

**§ 1610. Sale under power; Auction required; Time and District State designated.**

All sales of property under powers contained in any deed of trust must be held in the District State where said property is situated, and must be made at auction, to the highest bidder, between the hours of 7:30 a.m. and 4:30 p.m.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 8 (1), modified.

**§ 1611. Sale under power; Notice requirements.**

Before the sale of property under power contained in any deed of trust, notice thereof must be given by:

(1) personal service or, if personal service is not made despite efforts in good faith, by mailing a copy of said notice at least ~~20~~ **twenty** days and not more than ~~60~~ **sixty** days before the date of sale by registered or certified mail with postage prepaid to the trustor or his successor in interest if such address is known, otherwise to the address of the trust property;

(2) publishing a copy thereof once a week for at least ~~20~~ **twenty** days before the date of sale in some newspaper of general circulation in the community or District State in which the property is situated, or, if there be no such newspaper, by posting such notice for the same period in three public places in the community or District State in which the property is to be sold; and

(3) posting a copy of said notice in some conspicuous place on the property to be sold, at least twenty days before date of sale.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 8 (2), modified.

**§ 1612. Sale under power; Postponement.**

Whenever a request in writing signed by both trustor and beneficiary for a postponement of the sale to an agreed date and hour is given to the trustee, the trustee shall thereupon by public declaration postpone the sale to the day and hour so fixed by the trustee for the sale. In case of postponement, notice must be given by public declaration by the trustee at the time and place last appointed for the sale. No other notice of postponed sale need be given.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 8 (3).

**§ 1613. Sale under power; Trustee's deed; Purchaser's title.**

(1) The trustee, upon such sale, shall make without warranty, execute, and, after due payment made, deliver to purchaser or purchasers, his or their heirs or assigned, a deed or deeds of the premises so sold which shall convey to the purchaser or purchasers all the title of the trustor in the trust premises, and shall apply the proceeds of the sale thereof in payment, firstly, of the expenses of such sale, together with the reasonable expenses of trust, including attorney's fees as may be awarded by the Court, which shall become due upon any default made by the trustor in any of the payments, and in payment, secondly, of the obligation or debts secured, and interest thereon then remaining unpaid, and the amount of all other moneys with interest thereon agreed to be paid by the trustor. The balance or surplus of such proceeds of sale shall be paid to trustor, his heirs, executors, administrators, or assigns.

(2) A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding filing of notice of default, personal service, or mailing copies of the notice of default, election to sell, and notice of sale to the trustor or his successor in interest, publishing or posting, or

both, notice of sale, and personal service or mailing copies of notices shall constitute prima facie evidence of compliance with such requirements and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice;

(3) Every sale made under the provisions of this subchapter vests in the purchaser the title of the trustor without equity or right of redemption.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 8 (4).

#### **§ 1614. Sale under power.**

Purchase by trustee in absence of eligible buyer, Fiduciary obligations:

(1) If, at the time and place specified for sale, no buyer appears or is eligible to purchase under the provisions of this code, the trustee shall purchase the property in its own name in trust for and on behalf of the beneficiary, for the remaining unpaid balance of the debt secured by the deed of trust, and may thereupon enter into possession of the property; and such purchase and other evidence of title shall be recorded with the land commission for the ~~Distriet~~ State in which the property is situated;

(2) In the event of such a purchase, or acquisition in lieu of foreclosure, the trustee shall in all respects be a fiduciary with respect to such property for the benefit of the beneficiary, and may lease, operate, manage, and sell, or otherwise dispose of the property, under such terms, covenants, and conditions as may be specified by the beneficiary. The trustee and beneficiary of any deed of trust may at any time agree or enter into a trust or holding agreement formalizing the rights, duties, and obligations concerning the property secured by deed of trust, in the event the trustee purchases under the deed of trust under the provisions of this subchapter.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 8 (7).

#### **§ 1615. Deed of trust; Discharge, reconveyance, and satisfaction.**

(1) A deed of trust must be discharged by an acknowledged certificate signed by the beneficiary, his personal representative, or assigns, stating that the debt secured by the deed of trust has been paid; satisfied, or discharged. Reference shall be made in such certificate to the name or names of the trustor or trustors, the date or recordation, and the location where the deed of trust is recorded in the records of the ~~Distriet~~ State land commission.

(2) When any debt secured by a deed of trust has been justly satisfied, the beneficiary of the deed of trust, or his assignee, must execute, acknowledge, and deliver to the trustor, or the owner of the land a certificate of discharge of the debt, and, upon notice thereof, the trustee shall execute a full reconveyance of title to the trustor or owner. The beneficiary, his assignee, or personal representative shall deliver to the trustor, his heirs, successors, or assigns, the deed of trust and the note so paid or satisfied.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 9, modified.

#### **§ 1616. Waste prohibited.**

No person who has transferred in trust any estate in real property as security for the performance of an obligation or the payment of any debt may do any act which will substantially impair the beneficiary's security.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 10.

#### **§ 1617. Appointment of receiver.**

(1) At any time after the filing of a notice of breach and election to sell real property under a power of sale contained in a deed of trust, the trustee or beneficiary of the deed of trust may apply to the High

Court for the ~~District~~ State in which the property is located for the appointment of a receiver of such property.

(2) A receiver shall be appointed where it appears that real property subject to the deed of trust is in danger of substantial waste, or that the income therefrom is in danger of being lost, or that personal property subject to the deed of trust is in danger of being, lost, removed, materially injured, or destroyed, or that the property is or may become insufficient to discharge the debt which it secures.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 11, modified.

**§ 1618. Assignment of beneficial interest.**

Any assignment of the beneficial interest under a deed of trust may be recorded at the land commission of the ~~District~~ State in which the land is situated, and from the time the same is filed for record all persons are deemed to have constructive notice of the contents thereof.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 12, modified.

**§ 1619. ~~District~~ State Legislature act.**

This chapter shall apply to a ~~District~~ State by a bill adopting this subchapter, and upon its enactment by the ~~District~~ State legislature, becoming law.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 13, modified.

**§ 1620. Construction with other laws.**

Insofar as the provisions of this subchapter are inconsistent with the provisions of any other law, the provisions of this subchapter shall be controlling.

**Source:** TDL 27-5, § 1, adopting COM Public Law 7-53, § 14.