

KSC, TITLE 11. LAND & ENVIRONMENT

Chapter 6. Determination and Registration of Interests in Land

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Section 11.601. Short Title.

This act shall be known and may be cited as "The Land Court Act of 2000".

Section 11.602. Definitions.

As used in this Chapter the following words and phrases have the meaning herein described:

- (1) "Clerk of the Court" means the person designated to act as clerk for all actions of the Land Court;
- (2) "Interests in land" means every interest in land, including but not limited to, fee simple ownership, easements, covenants that run with the land, leaseholds and other estates in land;
- (3) "Justice" means any Justice of the Land Court;
- (4) "Land Court" or "Court" means the Land Court created by this chapter;
- (5) "Register of Titles and Interests in Land" or "register" means the book, files or documents in which the registration and recordation of all titles and other forms of land ownership or rights in land are filed;
- (6) "Registration area" means any area which has been designated for treatment by the Land Court to determine boundaries and ownership interests; and
- (7) "Registrar" means the person or persons assigned the duties within the Land Court to record, register, and maintain records of title and ownership interests and parcel boundaries as may be determined by the Court.

Section 11.603. Land Court, Creation and Composition.

- (1) The Land Court is hereby established as an inferior court, within the Kosrae State Court system, for the purposes of title investigation, title determination, and the registration of interests in

lands within this State and to provide one system of filing all recorded interests in land.

(2) The Land Court consists of a Principal Land Court Justice and not more than two Associate Land Court Justices.

(a) In the event that all Land Court justices have a conflict of interest or for other reasons are legally disqualified from hearing a case before the Land Court, a Justice of the Kosrae State Court may hear and adjudicate the matter.

(b) In the event none of the Land Court Justices nor the State Court Justices can adjudicate a particular case because of a conflict of interest or other legal disqualification, a Justice Pro Tem or alternate Justice must be designated to hear and adjudicate the matter pursuant to the Kosrae State Code or General Court Orders.

(3) All Land Court Justices shall be nominated and appointed by the Governor, subject to the advice and consent of three-fourths of the Senators of the Kosrae State Legislature.

(4) Land Court Justices shall hold office, during good behavior, for a term of six years or until a successor is confirmed. Justices may be reappointed.

(5) All cases pending before the former Land Commission at the time of the effective date of this Act shall be transferred to the Land Court for hearings, decision and adjudication.

Section 11.604. Jurisdiction.

The jurisdiction of the Land Court shall extend throughout the State of Kosrae and include all matters concerning the title of land and any interests therein.

Section 11.605. Powers of the Court.

(1) The Land Court has the power to:

(a) Issue service of process;

(b) Make orders for the attendance of witnesses and the production of documents;

(c) Make orders for the disposition of exhibits and evidence;

(d) Make orders and decisions regarding the determination of interests and registration of land, including the subdivision of any interest or rights in land;

(e) Make orders and decisions which determine any claim of heirship to a deceased person's title or interest in lands;

(f) Issue certificates of Title setting forth the names of all persons or entities holding interest in parcels of land;

(g) Engage in additional actions, not inconsistent with law, rule or general court order of the Kosrae State Court, required to carry out its functions.

Section 11.606. Administration.

(1) The Chief Justice of the Kosrae State Court shall promulgate evidentiary and procedural rules and regulations governing hearings of the Land Court; provided however, that all Land Court Justices shall be allowed and expected to exercise independent judgment performing the powers specifically granted to them herein;

(2) To the maximum extent possible, the Chief Justice of the Kosrae State Court shall provide for the sharing of personnel and facilities among the courts of the State;

(a) The Chief Justice shall hire any personnel necessary for operation of the Land Court. Personnel hired for the operation of the Land Court shall be hired and administered pursuant to Kosrae State Laws and Kosrae State Court regulations; and

(b) An annual budget request shall be submitted by the Principal Land Court Justice to the Chief Justice of the State Court by January 15 of each calendar year. The Kosrae State Court shall submit a budget for the Land Court as part of its annual budget request pursuant to applicable sections of the Kosrae State Code.

(3) The Chief Justice of the Kosrae State Court shall determine a location at which all hearings and proceedings of the Land Court will occur;

(4) The Principal Land Court Justice, subject to State law and the rules applicable to the Court, is responsible for the day-to-day management of Land Court employees. Except for the hiring of employees, the Principal Land Court Justice is the designated management official for purposes of personnel decisions regarding employees of the Land Court. Employees of the Land Court shall be subject to the rights and responsibilities accorded to other employees of the Kosrae State Court under the State Public Service System; and

(5) The Land Court shall promulgate regulations for the determination and adjudication of disputed claims and for updating, maintaining and recording of transfers in land, encumbrances on land and for marking of boundaries, including the marking and recordation of subdivisions of interests in land.

Section 11.607. Qualifications of Justices.

(1) Every person appointed as a Land Court Justice shall have the following qualifications:

(a) Be a citizen and a native Kosraean;

(b) At least 35 (thirty-five) years of age;

(c) A graduate from a four year college or university or a person of demonstrated legal ability by having at least five years of experience practicing law, a full-time judge of a State Court or a Land Commissioner or judge;

(d) Be of good moral character; and

(e) Not have a felony conviction in any jurisdiction.

(2) Justices must be a resident of the State of Kosrae for a cumulative period of ten years prior to appointment.

Section 11.608. Conduct of Justices.

The standards of conduct for justices consist of the following:

(1) Justices shall follow and adhere to the provisions of the Code of Judicial Conduct of the American Bar Association;

(2) Justices shall comply with any other rules or standards promulgated by the Legislature or Chief Justice of the State Court; and

(3) Justices shall be responsible for the diligent determination of interests in land and the boundaries thereto.

Section 11.609. Compensation.

The Principal Land Justice shall receive an annual compensation in the amount of sixteen thousand (\$16,000) dollars. The Associate Land Justices shall receive an annual compensation in the amount of fourteen thousand (\$14,000) dollars. The amount of compensation shall not be increased or decreased during their terms of office, except by general law applying to all State Government employees.

Section 11.610. Removal of Justices.

Justices of the Land Court may be removed under the same procedures applicable to a Justice of the Kosrae State Court.

Section 11.611. Land Court Staff.

To the extent funding permits, the Land Court shall employ persons qualified as court reporters, clerks, a registrar and other court staff to assist the justices in adjudicating, recording its adjudication, title determinations and claims.

Section 11.612. Designation of Registration Areas.

(1) The Principal Land Justice shall systematically designate registration areas for treatment within one year.

(2) The Principal Land Court Justice shall assign himself and the Associate Land Court Justices specific registration areas. Each individual Justice shall be responsible for determining boundaries, title and registration of the parcels within his assigned area.

(3) Each Justice shall institute diligent inquiries regarding each claim of interest within their area and set each well-founded claim for hearing once all claims are recorded. Each Justice shall provide notice to each claimant as provided in section 11.613 of this Act.

(4) Each Justice, after providing notice, shall hear the claimants, witnesses, and other such evidence as may be offered and make a decision, based on evidence received at the hearing.

(5) Upon adjudicating a claim, or witnessing a settlement by all claimants to a parcel each Justice shall:

(a) Provide written findings and decision regarding the name of the parcel, the name or names of the persons found to have a lawful interest in the land and the respective nature of the interest in such land.

(b) Each Justice shall cause to be filed by the Clerk of the Court his findings and decision within a period not exceeding 120 (one hundred twenty) days after the close of oral arguments or proceedings of the matter. Failure to render a decision within the prescribed time limits may be good cause for removal or other discipline of a justice within the meaning of section 11.610 of this chapter.

(c) Each Justice shall issue and cause to be recorded a certificate of title after the time for filing appeal has expired and no such notice has been filed, or after the conclusion of an appeal.

(6) A Justice shall not adjudicate a matter previously decided by a court between the same parties or those under whom the parties claim which dispute involves the same parcel. The Land Court shall accept prior judgments as res judicata and determine those issues without receiving evidence.

Section 11.613. Notice of Parties.

The following are requirements for proper notice, to parties, of a hearing before the Land Court:

- (1) The Land Court shall provide a notice of hearing to all interested parties and claimants as provided herein. Such notice shall clearly state the location, time and date of the hearing and the description of the parcel of land and names of the parties involved;
- (2) The notice of hearing, written in both Kosraean and English, shall be posted at no less than three conspicuous places or no less than two areas of public access as determined by the Justice for a period of thirty days prior to the hearing;
- (3) The contents of the notice of hearing shall be announced, in both Kosraean and English, on the Kosrae radio station at least twice per week for the two weeks immediately preceding the hearing;
- (4) The notice of hearing, written in both Kosraean and English, shall be posted at the municipal building of the municipality in which the property is located for a period of thirty days prior to the hearing; and
- (5) Any claimant who is residing off-island and has informed the Land Court, in writing, of an off-island mailing address shall be notified forty-five (45) days prior to a hearing by the use of certified mail, return receipt requested. The forty-five (45) day period shall be calculated from the date of mailing.

Section 11.614. Appeals.

- (1) An appeal from an adjudicated matter by the Land Court shall be made within sixty (60) days of service of the written decision of the Land Court Justice upon the party appealing the decision. Service of the written decision shall be made upon all claimants who appeared at the hearing, pursuant to the rules prescribing service requirements for the Kosrae State Court.
- (2) An appeal shall be made by filing a notice of appeal with the Kosrae State Court and filing a certified copy of the notice of appeal with the Land Court within the time limits set forth in this section.
 - (a) Within 90 (ninety) days of receipt of the certified copy of the notice of appeal, the Land Court shall provide to the State Court the following items from the decision being appealed:
 - (i) All original records, pleadings, documents and evidence received;
 - (ii) A complete written copy of the transcript of proceedings; and
 - (iii) A written copy of the findings and decision of the Land Court Justice.
- (3) The notice of appeal shall state the Land Court decision which is being appealed and the specific legal grounds upon which such appeal is based.
- (4) The notice of appeal shall comply with all State Court rules and regulations concerning appeal procedures and substance.
- (5) The State Court shall thereafter calendar and hear the matter as hereinafter provided. The matter shall be decided upon briefs submitted by the parties and oral argument concerning legal

issues. If a party fails to file a timely brief, as ordered by the State Court, such failure may be considered as consent to the relief sought by the opposing party's brief. The State Court has the discretion to refuse to allow oral argument by a party who fails to file a timely brief.

(a) No evidence or testimony shall be considered at the appeal hearing except those matters which constitute the official record, transcripts, and exhibits received at the Land Court hearing.

(b) The State Court shall decide the matter by applying the "substantial evidence rule" to any decisions rendered by the Land Court.

(c) After review of the entire record and hearing oral arguments from counsel or parties, the State Court shall render a decision on the appeal and issue a written decision within 120 (one hundred twenty) days of the close of argument and hearing.

(d) If the State Court finds the Land Court decision was not based upon substantial evidence or that the Land Court decision was contrary to law, it shall remand the case of the Land Court with instructions and guidance for re-hearing the matter in its entirety or such portions of the case as may be appropriate.

(e) If the State Court affirms the decision of the Land Court, no further appeals to the State Court shall be allowed.

Section 11.615. Issuance of certificate of title.

(1) When issued. The Land Court shall issue a certificate of title:

(a) After the time for appeal from a determination of ownership has expired without the filing of a notice of appeal; or

(b) After an appeal has concluded.

(2) Owners set forth. The certificate of title must set forth the names of all persons holding an interest in the land pursuant to the Land Court's determination, either as originally made or as modified by the Kosrae State Court on appeal.

(3) Effect of certificate; restriction. The certificate of title is conclusive upon any person who had notice of the proceedings and all those claiming under that person. The certificate of title is prima facie evidence of ownership against all others. Land held under a certificate of title is subject to the following, whether or not stated in the certificate:

(a) Any right of way over the land in question; and

(b) Any lease or use interest for a term not exceeding one year.

(4) Appurtenant easements. A preexisting easement or other right appurtenant to the land:

(a) Remains appurtenant even if it is not described in the certificate; and

(b) Passes with the land until cut off or extinguished in a lawful manner independent of the certificate.

Section 11.616. Transition.

The Chief Justice of the Kosrae State Court and the Principal Justice of the Land Court shall take any

actions necessary for the orderly transition of the State Judiciary under this Chapter.

(a) The Land Court shall succeed to all responsibilities, registers, properties and assets of the Land Commission.

(b) Land determinations and registrations issued by the Land Commission are equivalent to the title determinations and registrations of the Land Court created by this Chapter.