

YSC, Title 9. Public Property, Purchasing & Contracts

Chapter 1. Public Land

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§101. Purposes.

The purpose of this chapter is to designate the State Government to hold title to public lands within the State in trust for the people of the State, to manage or dispose of the same, and to provide for the conveyance of public lands to the State Government pursuant to [Secretarial Order No. 2969](#), as amended.

Source: YDL 6-7 §1, modified.

Cross-reference: The full text of [Secretarial Order No. 2969](#), is found following the text of the [Yap State Code](#) in the Reference Documents section of this Code.

Commission Comment: "Department of Interior Order No. 2969" is changed to "[Secretarial Order No. 2969](#)".

§102. Designation.

The State Government is designated as the legal entity:

- (a) To receive and hold title to public lands in trust for the people of the State;
- (b) To administer, manage, and regulate the use of public lands and income arising therefrom in trust for the people of the State;
- (c) To sell, lease, exchange, use, dedicate for public purposes, or make other disposition of such public lands pursuant to the laws of the State;
- (d) To negotiate in good faith, and execute binding formal agreements to meet the land requirements of the United States as designated under the terms of a future status agreement, subject to the provisions of the [Constitution of the Federated States of Micronesia](#) and such future status agreement; and
- (e) To exercise other powers and duties as may be necessary and appropriate to further the purposes of [Secretarial Order No. 2969, as amended](#).

Source: YDL 6-7 §2, modified.

Cross-reference: [Secretarial Order No. 2969](#), is found following the text of the [Yap State Code](#) in the Reference Documents section of this Code.

Commission Comment: "Department of Interior Order No. 2969" is changed to "[Secretarial Order No. 2969](#)".

§103. State Government.

(a) The power and duties of the State Government enumerated in section 102 of this chapter shall be exercised by the respective branches of the State Government pursuant to the [Yap State Constitution](#). Any sale, grant, exchange, or lease of public lands, the terms of which exceed five

years total, including extensions, shall require the consent of the Legislature or committee thereof. The "five years total, including extensions," shall apply to any lease the terms of which would make the prospective lessee the occupier of such government property for more than five years. Any sale, grant, exchange, or lease of public lands, the terms of which exceed five years total, including extensions, without the consent of the Legislature or committee thereof shall be void. Before any new lease agreement is executed for any piece of public property for which there is an existing lease, the Governor shall publish a notice requesting for new proposals for such government property at least 30 days before the existing lease expires.

(b) Any lease agreement for public lands entered into by the Governor and prospective lessee shall contain a certification by the Governor that the lease is consistent with Yap State's official plans. Agreements for the conveyance of public lands shall be signed by the Governor and the other party to the lease prior to their submission to the Legislature.

(c) Any agreement for the conveyance of vacant public land for development shall be accompanied by an environmental impact assessment study conducted by an independent entity prior to the submission of the lease agreement to the Legislature. Independent entity as used herein shall mean any legal entity which is not controlled by either the government or the prospective lessee nor subject to either's right to control with respect to the performance of the study.

Source: YDL 6-7 §3, as amended by YSL 1-94 §1, YSL 1-203 §1, YSL 3-83 §1, and YSL 3-88 §1, modified.

Cross-reference: Section 102 of this chapter designates the responsibilities of the State Government with regard to property. The statutory provisions on the Legislature are found in Title 2 of this Code. The statutory provisions on the Executive are found in Title 3 of this Code. The statutory provisions on the Judiciary are found in Title 4 of this Code.

§104. Limitations.

(a) The paramount power of eminent domain is reserved in the central government of the Trust Territory of the Pacific Islands for public purposes pursuant to applicable law.

(b) The right of the central government of the Trust Territory of the Pacific Islands to regulate all activities affecting conservation, navigation, or commerce in and to the navigable waters and tidelands, filled lands, submerged lands, and lagoons is reserved, provided that, in the exercise of such right, the central government will not unnecessarily interfere with the exercise of all prior traditional rights in and to such lands.

(c) The State Government shall comply with all provisions of existing leases and land use and occupancy agreements previously entered into by the central or District Government of the Trust Territory of the Pacific Islands or the State Government, their agencies, instrumentalities, or political subdivisions.

(d) Tenants at will and tenants by sufferance may continue possession of public land actually occupied and used at the effective date of [Secretarial Order No. 2969](#), with the concurrence of the Government of the Trust Territory of the Pacific Islands, for a reasonable period of additional years to be mutually agreed to by the State Government and the High Commissioner.

(e) All revenue derived by the State Government from public lands transferred to the State Government pursuant to [Secretarial Order No. 2969](#), as amended, shall be deposited in the General Fund of the State of Yap for appropriation for public purposes.

(f) All transfers and conveyances of public lands shall be made subject to all valid and existing claims relating to such land.

(g) The United States Government and the central government of the Trust Territory of the Pacific Islands and their agencies or political subdivisions shall be held harmless from any and all claims arising after the conveyance of public lands other than those claims resulting directly from the action of the United States Government, the Government of the Trust Territory of the Pacific Islands or their duly authorized agents.

Source: YDL 6-7 §4, modified.

Cross-reference: The constitutional provision on the taking of private property for public purposes is found in [Yap Const., Art. II, Sect. 11](#). That section states: "The Legislature may provide by general law for the taking of private property for a public purpose. The general law shall provide for just compensation, good faith negotiations for lease or purchase and consultation with appropriate local government prior to the taking, and the manner of the taking."

Secretarial Order No. 2969, is found following the text of the Yap State Code in the Reference Documents section of this Code.

Commission Comment: "Department of the Interior Order No. 2969" is changed to "[Secretarial Order No. 2969](#)". The "General Fund of the Legislature" is changed to the "General Fund of the State of Yap" pursuant to [section 1211 of Title 13 \(Taxation and Finance\)](#) of this Code.

§105. Reservation of power.

The powers of eminent domain, establishment of adjudicatory bodies to resolve claims disputes as to titles or rights in public lands transferred to the State Government, and establishment of a program for homesteading on said lands, granted to the Legislature by [Secretarial Order No. 2969, as amended](#), is reserved by the Legislature for future enactment of laws pursuant to said Order.

Source: YDL 6-7 §5, modified.

Cross-reference: [Secretarial Order No. 2969](#), is found following the text of the [Yap State Code](#) in the Reference Documents section of this Code.

Commission Comment: "Department of the Interior Order No. 2969" is changed to "[Secretarial Order No. 2969](#)".