

CHAPTER 3

Japanese and Trust territory Government

Leasehold conveyance

Section

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42 PC 3-101. Short title.

This chapter is known and may be cited as the “Public Trust Lands Distribution Act of 1980.”

Source: S.L. No. 2L-43-80 §1, 11/12/80

42 PC 3-102. Purpose.

The purpose of this chapter is to distribute lands held in trust for the people of Pohnpei to beneficiaries of the trust who have entered upon, developed, and possessed such lands for agricultural purposes pursuant to leasehold or other use agreements issued for that purpose by the government of Japan or the Trust Territory Government.

Source: S.L. No. 2L-43-80 §2, 11/12/80

42 PC 3-103. Definitions.

As used in this chapter, unless the context otherwise requires, the term:

(1) "Board," for the purposes of this chapter, shall refer to the Public Lands Trust Board of Trustees.

(2) "Development," for the purposes of this chapter, means the presence on the effective date of this chapter [November 12, 1980] of not less than 60 utility trees not less than two years old per hectare, which includes coconut palm, breadfruit, citrus, mango, coffee, cacao or other permanent food-bearing trees, or the substantial equivalent thereof in short-term, food-bearing crops in amounts to be determined by the Board with evidence that such seasonal plantings have been maintained for at least two years immediately preceding the effective date of this chapter.

(3) "Entryman" means any person who is a qualifying beneficiary of the Pohnpei Public Lands Trust, as defined by this chapter, who has at any time prior to January 1, 1958, received a written leasehold interest or use right in public land for a period of not less than one year or to whom a written application specifically relating to such leasing of land has been issued prior to January 1, 1958, coupled with authorized permission to enter the property, for agriculture use or development granted by either the government of Japan or the Trust Territory Government, inclusive of the United States of America Naval Administration, for the principal benefit of the entrymen. Entryman includes any qualifying beneficiary of Pohnpei Public Lands Trust land who is the heir or devisee of such a person as determined by the law of wills, or by the laws of intestate succession of Pohnpei on the effective date of this chapter [November 12, 1980], regardless of the date of death of the original entryman; PROVIDED, HOWEVER, that if a successor of an original entryman inherited title to property of the original entryman to the exclusion of his siblings, then the share of that successor in title granted under this chapter shall be reduced proportionately. The rights of such successors to original entrymen are hereby recognized notwithstanding any provisions of the leaseholds or use permits providing for cancellation of the leasehold or use permit on the death of the holder thereof. "Entryman" means the qualifying Trust beneficiary assignee of an entryman who has, with the written or oral permission of said entryman prior to January 1, 1980, and notwithstanding the restrictive language of the initial government lease or use agreement entered and possessed the land in the manner prescribed by this chapter. "Entryman" does not include a sublessee of the entryman who has possessed the land for the principal benefit of the entryman or his immediate family or the issue thereof, inclusive of adopted children. The burden of proof that a person is an assignee of the entryman and not a sublessee shall be upon the person or his successors so asserting such status. Entry, possession, and development of a sublessee shall for purposes of this chapter be deemed the activity of the entryman granting such sublease to said person.

(4) "Possession," for the purposes of this chapter, means actual entry and continuous use of the land by the entryman, or his successors from the commencement of the lease or use interest through the effective date of this chapter [November 12, 1980]; PROVIDED that interruptions in possession for a cumulative period of more than twenty-five percent (25%) of the possessory period shall not be excused except upon a showing of good cause.

(5) "Qualifying beneficiary," for purposes of this chapter, means a legal resident of Pohnpei who has attained legal residence in the state in the manner prescribed by Article 3 of the Pohnpei Constitution or the General Election Law, Title 10 Chapter 4, or his successor, (10 PC 4-*), who is at least 18 years of age, and who has actually resided or maintained legal residence in the state for a period of not less than 15 years; and the beneficiary children thereof regardless of age.

Source: S.L. No. 2L-43-80 §3, 11/12/80

42 PC 3-104. Transfer of developed lands.

(1) Subject to the limitations provided in this chapter, any entryman in possession of lease or use property specified in this chapter, who believes that he has developed his land as defined in 42 PC 3-103, may apply, on or before December 31, 2001, to the Board to transfer title of the property to him or to another eligible person designated by him.

(2) An entryman holding title to no land on the effective date of this chapter and any time thereafter prior to submission of his application, shall be eligible to apply for transfer of title up to five hectares of land that the entryman or his predecessor has held under Japanese leasehold or use permit. If the entryman so holds title to land on the effective date of this chapter [November 12, 1980] or acquired thereafter prior to application, but less than five hectares, he is eligible to apply for title to as much land held under Japanese leasehold or use permit as shall be the difference between his Japanese leasehold or use permit or five hectares, whichever shall be less, and the amount so owned.

(3) An entryman holding title to no land on the effective date of this chapter [November 12, 1980] or any time prior to the submission of his application shall be eligible to apply for transfer of title up to three hectares of land that the entryman or his predecessor has held under a Trust Territory Government leasehold or use permit. If the entryman so holds title to land on the effective date of this chapter or acquired thereafter prior to application, but less than three hectares, he is eligible to apply for title to as much land held under Trust Territory Government leasehold or use permit as shall be the difference between his Trust Territory Government leasehold or use permit or three hectares, whichever shall be less, and the amount so owned.

(4) Any entryman not eligible in his own name to apply for transfer of title to all or any portion of land held under Japanese or Trust Territory Government leasehold or use permit, or as a successor to a person who has so held public land, may designate any person who is a qualifying beneficiary, as defined in this chapter, to apply for transfer of title to such lands as he would be eligible to apply for if he were an entryman under this section; PROVIDED that no person, regardless of status, shall be eligible to receive more than five hectares of public land cumulatively determined under this chapter.

(5) In the instance that more than one person shall be eligible to receive title to portions of land under a singular leasehold or use permit under one original entryman, title to said land shall issue to such persons as tenants in common in proportion to their entitlement thereto, which land may be partitioned in the manner prescribed by law.

(6) In the instance in which more than one entryman shall assert adverse claims under this chapter to land or any portion thereof, title shall issue to such persons as the Court of Land Tenure shall determine in the interests of equity and justice. Receipt of title to public land under this chapter is a privilege accorded to qualifying beneficiaries of the Public Land Trust of this state. In the absence of fraud, malfeasance or abuse of discretion in the decision issued by the Court of Land Tenure pursuant to this subsection, no cause of action shall lie against the Board, the Government or any other person for the equitable distribution of such land.

Source: S.L. No. 2L-43-80 §4, 11/12/80; S.L. No. 2L-145-82 §1, 11/11/82; S.L. No. 1L-117-87 §1, 2/10/87; S.L. No. 4L-63-98 §1, 1/10/98; S.L. No. 5L-25-00 §1, 11/13/00

42 PC 3-105. Procedure for transfer of title to developed lands.

(1) Upon an application pursuant to 42 PC 3-104, the Board shall determine the eligibility of the applicant as an entryman or designee and shall inspect the land involved. Upon determination that the applicant is eligible as an entryman or designee, the Board shall issue a certificate of eligibility. Upon determination that there has been compliance with the requirement of development as defined in this chapter, the Board shall issue a certificate of compliance.

(2) Upon issuance of a certificate of compliance, the Court of Land Tenure shall, in conformity with 4 PC 6-*, hear and adjudicate all claims of right, title or interest in the land, and issue a determination of ownership. Upon a favorable ruling of the Court of Land Tenure, inclusive of all appeals relative thereto, the Board shall issue a quitclaim deed to the entryman or eligible designee. The quitclaim deed shall contain all reservations to the Public pursuant to 42 PC 3-111.

Source: S.L. No. 2L-43-80 §5, 11/12/80

Cross reference: See 4 PC 9-104

42 PC 3-106. Agricultural homesteading of lands in possession.

(1) Whenever any entryman in possession of public land as defined in 42 PC 3-103(4) has applied for a certificate of compliance to receive transfer of title pursuant to 42 PC 3-105, and a certificate of compliance has been denied solely on the grounds of lack or insufficiency of the development of such land, said entryman or his designee shall be issued a permit to homestead such land, subject to the area limitation of Subsection (2) of this section.

(2) Any person qualifying for a permit to homestead pursuant to Subsection (1) of this section shall be issued a permit to homestead such property as he would have been eligible to receive by quitclaim deed under 42 PC 3-104 if the development criteria required in issuance of the certificate of compliance under 42 PC 3-105 have been met.

Source: S.L. No. 2L-43-80 §6, 11/12/80

42 PC 3-107. Agricultural homestead permit requirements.

- (1) The homesteader shall commence the improvement of the land in accordance with requirements established by the Board within 60 days after receipt of the homestead permit.
- (2) The Board shall prescribe requirements of development no less stringent than those set forth in standard Form 8-6 issued by the Trust Territory Government in Pohnpei State for a permit to homestead.
- (3) The homestead permit shall provide for a three-year period of entry and development prior to the issuance of a deed of conveyance.

Source: S.L. No. 2L-43-80 §7, 11/12/80

42 PC 3-108. Inspection of homestead.

- (1) The Board shall inspect each homestead site once yearly for the first three years of entry following issuance of the homestead permit. If the inspection reveals failure of substantial compliance with the requirements of the homestead permit, a notice of noncompliance shall be issued to the homesteader in accordance with Subsection (4) of this section.
- (2) The Board may waive the requirement of annual inspection and any fees imposed upon the homesteader incident thereto upon a showing by the homesteader of sufficient receipts for the commercial sale of agricultural produce derived from the homestead pursuant to an incentives program that the Board may, in its discretion, establish.
- (3) Notwithstanding Subsection (2) of this section, a final inspection of each homestead site shall be conducted not later than three years after the issuance of the permit to homestead, and a certificate of compliance or a notice of noncompliance shall be issued to the homesteader not later than 30 days after the inspection. In the event of the issuance of a notice of noncompliance, Subsection (4) of this section shall take effect. In the event of issuance of a certificate of compliance, the Board shall issue a quitclaim deed of conveyance to the homesteader not less than five years after issuance of the permit to homestead.
- (4) When the Board has determined that a homesteader is not in substantial compliance with the requirements of this chapter or the homestead permit issued to him, the Board shall notify the homesteader of its determination of noncompliance and allow the homesteader 30 days to comply. If the Board determines that the homesteader has failed to comply, it shall hold a hearing to determine if the homesteader permit should be revoked. The Board shall give the homesteader at least 30 days prior written notice of the hearing. Upon hearing the matter, the Board shall revoke the homestead permit if it is determined that there has been no substantial compliance.

Source: S.L. No. 2L-43-80 §8, 11/12/80

42 PC 3-109. Rights in homestead sites.

(1) A homesteader whose homestead site, or any portion thereof, shall be taken for public purposes shall be entitled to compensation for losses of or any damages to crops, buildings, and other improvements. In the instance the taking shall be such as to extinguish the homestead, the homesteader shall be given a new homestead site in an area designated by law or resolution of the Legislature for such purpose.

(2) No homesteader shall have the right to sell or transfer his homestead at any time prior to the issuance of a certificate of compliance pursuant to 42 PC 3-108(3).

(3) A homesteader may lease any portion of his homestead land to a public entity for public purposes.

(4) A homesteader may designate on his homestead permit such person or persons eligible to succeed to all his rights in the homestead in the event that he should die before the issuance of the deed of conveyance. Said designation may be amended by the homesteader at any time. If no designation made by the homesteader is effective at the time of his death, the rights under the homestead permit shall pass to his heirs in accordance with Pohnpei laws of inheritance; PROVIDED, that any heir ineligible to homestead shall not share in the rights to homestead; PROVIDED FURTHER, that an heir otherwise eligible, who is under the age of 18 shall be eligible to inherit homestead rights.

Source: S.L. No. 2L-43-80 §9, 11/12/80

42 PC 3-110. Restriction of alienation.

An entryman, homesteader, designee, heir or devisee who receives title to land pursuant to this chapter may not sell or transfer title, or contract for the sale or transfer of title, or lease or otherwise encumber said land for a period of 15 years following the issuance of the deed of conveyance except:

(1) For public or for charitable purposes approved by the Board;

(2) To members of the immediate family of the transferor meaning, for the purposes of this chapter, the spouse, children, grandchildren, parents, and siblings, whether adopted or natural;

(3) By foreclosure pursuant to applicable mortgage law or other similar law; PROVIDED that a mortgage instrument or other similar instrument which is found by a court of competent jurisdiction to have been executed in bad faith as a means to circumvent the restrictions on alienation set forth in this section is void;

(4) By devise or inheritance; or

(5) By lease or use agreement the terms of which inclusive of renewal or options do not exceed a period of 50 years, or by any lease agreement to a public entity for public purposes.

Source: S.L. No. 2L-43-80 §10, 11/12/80

42 PC 3-111. Reservations in grants. T

here shall be reserved to the public in every grant of land pursuant to this chapter:

(1) All existing public uses, roads, and easements;

(2) A public easement 30 feet in width on either bank of any river or stream passing through or bounding upon the property that has an average width of five feet or more at those points at which it bounds or passes through the property; and

(3) The right to take without compensation for land, additional lands for public purposes for the principal benefit of the state or local governmental entity; PROVIDED that such additional land and the land covered by existing public uses does not exceed one-tenth of the total land area of the property granted. This right shall extinguish unless exercised within 15 years of issuance of the deed of conveyance.

(4) A person whose property for which title was granted pursuant to this chapter, or any portion thereof, is taken for public purposes following the effective date of this chapter [November 12, 1980] shall, notwithstanding Subsections (2) and (3) of this section, be entitled to such remedies as are available to an owner in fee simple for loss or damages to crops, buildings, and other improvements.

Source: S.L. No. 2L-43-80 §11, 11/12/80

Note: S.L. No. 2L-43-80 §12 has been superseded by S.L. No. 3L-99-95 §17-19, 7/20/95.