

## Chapter 4

### RESIDENTIAL Leasehold Conveyance

#### Section

4-101 Short title

4-102 Purpose

4-103 Legislative intent

4-104 Definitions

4-105 Right to transfer of lessee in compliance

4-106 Residential property eligible for transfer

4-107 Lessees eligible to receive title to a residential property

4-108 Procedural requirements

4-109 Reservations

4-110 Restriction on alienation

4-111 Rules and regulations; fees

42 PC 4-101. Short title.

This chapter is known and may be cited as the “Public Trust Lands Residential Leasehold Conveyance Act of 1999.”

Source: S.L. No. 4L-128-99 §1, 10/15/99

42 PC 4-102. Purpose.

The Pohnpei Government recognizes that, presently, the majority of residential properties in this state are publicly owned and held. Former leasehold programs for residential purposes have provided for a distribution for the use of these lands, but uncertainties inherent in leasehold programs have discouraged lessees from the private investment necessary to develop long-term capital improvements to these properties. In recognition of the impracticable and monumental task confronting the people in this state of constructing and maintaining permanent structures on publicly owned residential properties with surety of their investment, this statute has been enacted.

Source: S.L. No. 4L-128-99 §2, 10/15/99

42 PC 4-103. Legislative intent.

It is the intent of this chapter to pass such title and interest held by the Public Lands Trust Board of Trustees to residential lessees on eligible properties in the interest of the social well-being of the people of this state.

Source: S.L. No. 4L-128-99 §3, 10/15/99

42 PC 4-104. Definitions.

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

- (1) "Board of Trustees" or "Board" means the Public Lands Trust Board of Trustees.
- (2) "Lease agreement" means a written document that gives rise to the relationship of landlord and tenant. For purposes of this chapter, "lease agreement" does not include lease agreements of less than three years, nor does it include agreements for the use of government-provided housing to government employees as an incident to such employment, or for the permissive use by others of such government housing.
- (3) "Lessee" means the tenant of leased properties in direct relationship with the Board. "Lessee" means the assignees of an original lessee to a lease agreement where permitted under the terms of the lease, or when determined in the discretion of the Board to be in the interests of equity.
- (4) "Residential lease agreement" means a lease agreement by which the lessee leases the subject leasehold as a place of residence.

Source: S.L. No. 4L-128-99 §4, 10/15/99

42 PC 4-105. Right to transfer of lessee in compliance.

Subject to the reservations and limitations provided in this chapter, any lessee who believes he has complied with 42 PC 4-107, at any time within three years following the effective date of this chapter [effective date is October 15, 1999] or within three years following commencement of his lease from the Board, whichever is later, may apply to the Board to transfer to said lessee, by quit-claim title, such interest held by the Board in the leasehold property.

Source: S.L. No. 4L-128-99 §5, 10/15/99

42 PC 4-106. Residential property eligible for transfer.

Any public land held in trust by the Board designated or acknowledged for lease for residential purposes by the Board pursuant to the authority of state law or Legislature resolution, shall be deemed an “eligible residential property” for which title may transfer hereunder.

Source: S.L. No. 4L-128-99 §6, 10/15/99

42 PC 4-107. Lessees eligible to receive title to a residential property.

Any person who is a citizen and lawful resident and pweldak of this state, as defined by state laws and the Pohnpei Constitution, and who holds a valid residential lease agreement to an eligible residential property, and who is in compliance with all provisions of the applicable residential lease agreement, except the payment of rent and other charges, shall be entitled to receive title to that leasehold; PROVIDED, HOWEVER, that such person must actually use the subject leasehold as such person’s place of residence for a period of not less than twelve (12) months prior to submitting the application referred to in 42 PC 4-108(1); PROVIDED FURTHER, that any lessee is entitled to only one conveyance under this chapter; PROVIDED further that any current balance of rent and other charges due to the Public Lands Trust Board of Trustees shall be the subject of a separate agreement.

Source: S.L. No. 4L-128-99 §7, 10/15/99; S.L. No. 5L-108-03 §1, 9/5/03

42 PC 4-108. Procedural requirements.

(1) Upon application on such forms and pursuant to such terms as the Board shall prescribe pursuant to this chapter, the Board shall determine the eligibility of the applicant as a lessee, and compliance with this chapter. Upon determination that there is eligibility and has been compliance, the Board shall issue a certificate of compliance.

(2) Upon the issuance of a certificate of compliance, the Board shall file a quit-title action in the Court of Land Tenure, which Court shall hear and adjudicate all claims of rights, title or interest in the property. Upon the Court’s determination of ownership in the Board, with no valid adverse interests, and after any appeal procedure, the Court shall issue a certificate of title under 4 PC 6-115. Immediately thereafter, the Board shall transfer its title to the eligible lessee pursuant to 4 PC 6-117, and subject to chapter.

Source: S.L. No. 4L-128-99 §8, 10/15/99

42 PC 4-109. Reservations.

There shall be reserved to the public in every transfer of title pursuant to this chapter:

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

(2) A public easement of ten feet in width on either bank of a watercourse passing through or bounding upon the property, which watercourse has an average width of two feet or more at those points at which it bounds or passes through the property; and

(3) The right to take for public purposes additional land or any interest therein, without compensation for land or interest; PROVIDED that such additional land so affected and the land covered by existing public roads and easements and other public uses does not exceed one-tenth of the total area of the land granted. The right shall be extinguished unless exercised within ten years of the issuance of the deed of conveyance hereunder.

Source: S.L. No. 4L-128-99 §9, 10/15/99

#### 42 PC 4-110. Restriction on alienation.

In addition to all other prohibitions and restrictions prescribed by law or the Constitution, no title recipient or successor in interest of real property conveyed under the provisions of this chapter may sell or otherwise transfer for valuable consideration, for a period of five years following the issuance of the deed of conveyance, any interest in the real property so conveyed; except that:

- (1) Leasehold interests in the subject property may be transferred for a term or terms that do not exceed a cumulative total of 25 years, inclusive of all options to renew or extend the term of the lease;
- (2) Interests in the subject property may be returned to the public lands trust or transferred to a governmental entity for public purposes;
- (3) Interests in the subject property may be transferred by gift or inheritance between members of the immediate family of the recipient of title to said property from the Board of Trustees under this chapter;
- (4) Interests in the subject property may be mortgaged or transferred through deed of trust by the title holder of the interest in the property, but solely to secure the repayment of loans for improvements to the property issued by government and private lending institutions authorized to make secured loans within the state; and
- (5) Interests in the subject property may be transferred, in situations not otherwise provided above, when authorized by law and consented to in writing by the Board of Trustees in its sole discretion in the interests of public welfare; PROVIDED that the authorization of the Board must be recorded with the Court of Land Tenure prior to the establishment of any legal commitment to transfer such interests under the provisions of this subsection.

Source: S.L. No. 4L-128-99 §10, 10/15/99

#### 42 PC 4-111. Rules and regulations; fees.

The Board shall establish rules and regulations for the proper administration of this chapter. Such rules and regulations shall be issued in compliance with Title 8 Chapter 1, relating to administrative procedures, as amended or superseded by state law; PROVIDED that public notice thereunder shall include at least seven announcements relative to the proposed rules and regulations to be made on the public broadcasting station and posting of the same at local

government buildings in the municipalities of Kolonia, Kitti, Nett, Sokehs, Madolenihmw and U. The Board shall provide for publication and reasonable distribution of all rules and regulations issued hereunder. Such rules and regulations shall provide, among other things, for:

- (1) Standard forms necessary for the administration of this chapter;
- (2) Further definition of terms consistent herewith and required for the proper administration of this chapter;
- (3) Procedural elements of application and of review and processing of applications, and issuance of certificates; and
- (4) Procedures for the receipt, negotiation and settlement of adverse claims.

Source: S.L. No. 4L-128-99 §11, 10/15/99; S.L. No. 5L-108-03 §2, 9/5/03