

TITLE 56
GOVERNMENT PROPERTY ACQUISITION

CHAPTERS

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CHAPTER 1
Eminent Domain

SECTIONS

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§ 101. Purpose.

It is the purpose of this chapter to set up procedures to be followed by the Government of the Trust Territory in the exercise of its inherent power to acquire real property by eminent domain.

Source: TT Code 1966 § 1301; TT Code 1970, 10 TTC 1; TT Code 1980, 10 TTC 1.

Cross-reference: FSM Const., art. XIII, §§ 5 and 6 states as follows:

Section 5. A lease agreement for the use of land for an indefinite term by a noncitizen, a corporation not wholly owned by citizens, or any government is prohibited.

Section 6. The national government of the Federated States of Micronesia shall seek renegotiation of any agreement for the use of land to which the Government of the United States of America is a party.

Art. XIII, § 5 was amended by Constitutional Convention Committee Proposal No. 90-23, CD1, SD1 which became effective on July 2, 1991. The original language of art. XIII, § 5 was as follows:

Section 5. An agreement for the use of land for an indefinite term is prohibited. An existing agreement becomes void 5 years after the effective date of this Constitution. Within that time, a new agreement shall be concluded between the parties. When the national government is a party, it shall initiate negotiations.

The provisions of the Constitution are found in Part I of this code.

For provisions on real property acquisition requirements, see chapter 2 of this title.

Case annotations: Case annotations prior to the effective date of the constitutional amendment interpret art. XIII, § 5 as originally worded.

Indefinite Land Use Agreements

Read in the light of its legislative history, art. XIII, § 5 of the FSM Constitution was intended to cover leases, not easements, and therefore an easement that is indefinite in term does not violate this constitutional section. *Melander v. Kosrae*, 3 FSM R. 324, 330 (Kos. S. Ct. Tr. 1988).

The FSM Constitution terminated all existing indefinite term land use agreements five years after the effective date of the Constitution. After that date, without a new lease agreement the occupier becomes a trespasser on the land. *Billimon v. Chuuk*, 5 FSM R. 130, 132 (Chk. S. Ct. Tr. 1991).

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Easements are not indefinite land use agreements prohibited by the Constitution because "indefinite land use agreement" is a term of art referring to Trust Territory leases for an indefinite term. *Nena v. Kosrae*, 5 FSM R. 417, 423 (Kos. S. Ct. Tr. 1990).

Land granted for "for so long as it is used for missionary purposes," is not a constitutionally prohibited indefinite land use agreement because the length of the term of the land use will continue, with all certainty, as long as a court determines that the land is still being used for missionary purposes. The term is definite, because its termination can be determined with certainty. *Dobich v. Kapriel*, 6 FSM R. 199, 202 (Chk. S. Ct. Tr. 1993).

The Constitutional prohibition against indefinite land use agreements does not apply to an agreement where none of the parties are a non-citizen, a corporation not wholly owned by citizens, or a gov't. *Dobich v. Kapriel*, 6 FSM R. 199, 202 (Chk. S. Ct. Tr. 1993).

An easement for a road is not an indefinite land use agreement prohibited by the Constitution because it is perpetual. It is not indefinite in that it is effective into perpetuity. *Nena v. Kosrae (I)*, 6 FSM R. 251, 254 (App. 1993).

An easement may be created for a permanent duration, or, as it is sometimes stated, in fee, which will ordinarily continue in operation and be enforceable forever. The grant of a permanent easement is for as definite a term as the grant of a fee simple estate. Both are permanent and not for a definite term. *Nena v. Kosrae (II)*, 6 FSM R. 437, 439 (App. 1994).

A grant of a permanent or perpetual easement is definite in the same sense that a grant of a fee simple estate is definite. It is a permanent transfer of an interest in land. *Nena v. Kosrae (III)*, 6 FSM R. 564, 568 (App. 1994).

§ 102. Private corporations.

No private corporation except as may be authorized by a district legislature shall have the right of eminent domain in the Trust Territory.

Source: TT Code 1966 § 1303; TT Code 1970, 10 TTC 2; Department of Interior Order 2969 § 8(a); TT Code 1980, 10 TTC 2.

Cross-reference: For provisions on eminent domain powers of public lands authorities, see Secretarial Order No. 2969 § 3(d) and section 103 of this chapter.

§ 103. Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

(1) "Eminent domain" is the right of the central Government or a district legal entity as may be provided for by district law in accordance with the provisions of this chapter to condemn property for public use or purposes and to appropriate the ownership and possession of such property for such public use upon paying the owner a just compensation to be ascertained according to the law.

(2) "Public use" shall be construed to cover any use determined by the High Commissioner to be a public use.

Source: TT Code 1966 § 1302; TT Code 1970, 10 TTC 3; Department of Interior Order 2969 § 8(b); TT Code 1980, 10 TTC 3.

§ 104. Complaint.

A complaint must be brought in the Trial Division of the High Court in the name of and on behalf of the Government of the Trust Territory as plaintiff by the Attorney General or the District Attorney and must contain:

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- (1) the names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be called defendants;
- (2) a statement of the right or authority of the plaintiff;
- (3) a description of each parcel of land to be acquired and statement of what interest in the land is desired by the plaintiff; and
- (4) a general statement of the purpose of the taking.

Source: TT Code 1966 § 1304; TT Code 1970, 10 TTC 51; TT Code 1980, 10 TTC 51.

§ 105. Failure of parties to appear at proceedings.

In the event of the failure of any of the parties specified in section 104 of this chapter to appear in the proceedings, the Court shall, nevertheless, proceed to fix the amount of compensation and order that the amount be paid by the Government, without interest, to the rightful claimants on demand at any time within seven years from the date of the final judgment.

Source: TT Code 1966 § 1311; TT Code 1970, 10 TTC 52; TT Code 1980, 10 TTC 52.

§ 106. Issuance of summons.

The Clerk of Court shall issue a summons which shall contain the names of the parties, a general description of the whole property, or a reference to the complaint for the description of the land, and a notice to the defendants to appear in the proceedings.

Source: TT Code 1966 § 1305 (part); TT Code 1970, 10 TTC 53(1) (part); TT Code 1980, 10 TTC 53 (1) (part).

§ 107. Service of summons.

(1) When the defendants are known, the summons shall be served by delivering to them a copy thereof along with a copy of the complaint.

(2) If the defendants, whether known or unknown, cannot be found, then a copy of the summons and complaint shall be posted as follows:

- (a) on the property;
- (b) on the administration building or such other place where public notices are usually posted in the district center;
- (c) at a public place in a village located near the property; and
- (d) by delivering one copy of the summons and complaint to the magistrate of the municipality in which the property is situated.

(3) The service of the summons and the complaints or the posting thereof as provided herein shall be sufficient to give the Trial Division of the High Court jurisdiction to proceed with and finally determine the case.

Source: TT Code 1966 § 1305 (part); TT Code 1970, 10 TTC 53(1) (part), (2); TT Code 1980, 10 TTC 53(1) (part), (2).

§ 108. Establishment of value of land.

(1) Upon a *prima facie* showing by the Attorney General or the District attorney that the property desired to be purchased by the Government is for public use, the Court must hear the parties, and establish a fair value for the land.

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(2) The Court may appoint three assessors to assist in the proceedings and perform such functions as the Court may direct.

(3) In the event assessors are appointed by the Court, they shall take and subscribe an oath before the Judge that they will faithfully perform their duties as assessors.

Source: TT Code 1966 § 1306; TT Code 1970, 10 TTC 54; TT Code 1980, 10 TTC 54.

Cross-reference: For provisions on fair-market value, see section 203 of this title.

§ 109. Determination of ownership in event of dispute.

In the event there is a dispute over the ownership of the property which is the subject of an eminent domain proceeding, the Court shall adjudicate and determine the ownership of the property as part of the proceedings.

Source: TT Code 1966 § 1307; TT Code 1970, 10 TTC 55; TT Code 1980, 10 TTC 55.

§ 110. Final judgment.

The record of the final judgment in the proceedings shall state the particular land or interest in land which the Government has acquired and the compensation to be paid to the defendants and the Clerk of Courts shall issue a certificate of title in accordance with the judgment.

Source: TT Code 1966 § 1308; TT Code 1970, 10 TTC 56; TT Code 1980, 10 TTC 56.

Case annotation: A motion for removal will be denied where, in an action in eminent domain under Truk State law the only defense available are those relating to the taking, and the counterclaims asserted as a basis for national court jurisdiction do not fall within a defense to the taking. *Chuuk v. Land Known as Mononong*, 5 FSM R. 272, 273 (Chk. 1992).

The acquisition of interests in private land by the state for a public purpose without the consent of the interested parties is permitted under the Kosrae Constitution, Article XI, § 5, which requires specific procedures to be followed, which are set forth in Kosrae State Code § 11.103. The state must first negotiate with each interested party, provide a written statement of the public purpose for which the interest is sought and negotiate in good faith. If the negotiations are not successful, the state may begin a court action to acquire the interest in land. *Sigrah v. Kosrae*, 12 FSM R. 513, 519 (Kos. S. Ct. Tr. 2004).

Since the state's statutory authority to acquire interests in land through court action has never been utilized to forcibly purchase an interest in private land for a public purpose, the court cannot conclude that the state is likely to prevail on the merits of its claim due to a complete absence of court decisions applying or interpreting this authority. *Sigrah v. Kosrae*, 12 FSM R. 513, 519 (Kos. S. Ct. Tr. 2004).

§ 111. Immediate possession procedure—Generally.

(1) In the event the Government desires to enter into immediate possession of the property, the Government shall file a declaration of taking and pay a sum of money which is considered to be the fair value of the property to the Clerk of Courts.

(2) In addition to the requirements set out in section 106 of this chapter, the summons shall state the following:

- (a) that the plaintiff requires immediate possession of the property;
- (b) that sum of money which is considered to be the fair value of the property has been paid to the Clerk of Courts, which sum shall draw interest at the rate of three percent per

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annum from the date of the summons until claimed by the defendant or ordered paid to the defendant by the Court;

(c) that the defendant may at any time claim and receive the money which has been deposited with the Clerk of Courts upon the execution of a quitclaim deed in favor of the plaintiff;

(3) Payment to the Clerk of Courts in accordance with this section shall entitle the Government to take immediate possession of the land.

Source: TT Code 1966 § 1309; TT Code 1970, 10 TTC 57; TT Code 1980, 10 TTC 57.

Cross-reference: For provisions on Government actions before acquiring possession, see section 204 of this title.

§ 112. Immediate possession procedure—Possession after proceedings commenced.

(1) In the event the Government determines that it requires immediate possession of the property after eminent domain proceedings have been commenced, but before the rights of the parties and the amount of compensation are determined, a declaration of taking shall be filed in the Court and a sum of money which is considered to be the fair value of the land shall be paid to the Clerk of Courts.

(2) A summons shall be issued and served in the same manner as the summons in section 106 of this chapter, which shall refer to the original summons already served on the defendants, and shall otherwise conform to the requirements set out in section 111 of this chapter.

Source: TT Code 1966 § 1310; TT Code 1970, 10 TTC 58; TT Code 1980, 10 TTC 58.

§ 113. Costs of proceedings.

The costs in all cases brought under this chapter shall be paid by the plaintiff.

Source: TT Code 1966 § 1312; TT Code 1970, 10 TTC 59; TT Code 1980, 10 TTC 59.

CHAPTER 2
Real Property Acquisition

SECTIONS

- § 201. Application of chapter.**
- § 202. Property-acquisition procedures—Negotiations.**
- § 203. Property valuation.**
- § 204. Government actions required before owner surrenders property.**
- § 205. Property-acquisition procedures—Government conduct proscribed.**
- § 206. Interest in improvements.**
- § 207. Payments for improvements by tenants.**
- § 208. Expenses incidental to transfer of title.**
- § 209. Authority of High Commissioner to promulgate regulations.**

§ 201. Application of chapter.

This chapter shall be applicable to the acquisition of real property under the laws of the Trust Territory for use in any project or program of the Trust Territory Governments, the district or municipal governments, or the agencies created by the above enumerated government divisions hereinafter referred to as “Government.”

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 451.

Editor's note: COM PL 6-71 § 3 provided that this chapter would expire on June 30, 1976. However, the expiration date was postponed; see COM PL 6-102 and COM PL 7-35 § 15, and the expiration provision was later repealed by COM PL 7-78.

§ 202. Property-acquisition procedures—Negotiations.

In acquiring real property the Government will, to the greatest extent practicable:

- (1) make every reasonable effort to acquire real property expeditiously through negotiation;
- (2) before the initiation of negotiations, have the real property appraised and give the owner or his representative an opportunity to accompany the appraiser during the inspection of the property;
- (3) before the initiation of negotiations, establish an amount which is believed to be just compensation for the real property, and make a prompt written offer to acquire the property for that amount. In no event will the just compensation offered be less than the Government's approved appraisal of the fair market value of such property. At the time the Government makes an offer to purchase real property, the owner of that property will be provided with a written statement of the basis for the amount estimated to be just compensation.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 452(1) (part).

§ 203. Property valuation.

In determining just compensation for the property any increase or decrease of the fair market value caused by the public improvement for which the property is acquired prior to the date of valuation will be disregarded (other than that caused by physical deterioration).

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 452(1)(c)(i).

§ 204. Government actions required before owner surrenders property.

- (1) Before requiring any owner to surrender possession of any real property, the Government will, to the greatest extent practicable:
 - (a) pay the agreed purchase price; or
 - (b) deposit with the Court, for the benefit of the owner, an amount not less than the Government's approved appraisal of the fair market value of the property; or
 - (c) pay the amount of the award of compensation in condemnation proceedings for the property.
- (2) If interest in the real property is to be acquired by exercise of power of eminent domain, institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of this real property; and
- (3) If the acquisition of only part of the property will leave its owner with an uneconomic remnant, offer to acquire that remnant.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 452(1)(d).

Editor's note: The introductory phrase in section 202 applies to this section. Accordingly, in establishing this section as separate, the phrase "to the greatest extent practicable" has been editorially inserted.

§ 205. Property-acquisition procedures—Government conduct proscribed.

- (1) In acquiring real property, to the greatest extent practicable the Government will not:
 - (a) schedule a construction or development of the public improvement that will require any person lawfully occupying real property to move from a dwelling, or move his business or farm operation, without giving that person at least 90 days' written notice of the date he is required to move;
 - (b) if acquired property is rented to the former owner or tenant for a short term or subject to termination by the Government on short notice, charge a rent that is more than the fair rental value of the property to a short term occupant;
 - (c) advance the time of condemnation;
 - (d) defer negotiations, condemnation, or deposit of funds in court for use of the owner; or
 - (e) take any course of action to compel an owner to agree to a price for his property.
- (2) Should a court determine condemnation was unauthorized or should the property owner obtain a judgment in the nature of inverse condemnation, then the owner shall be reimbursed for reasonable expenses of litigation, in line with section 304, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- (3) Nothing in this section should be construed to preclude a donation by an owner after his property has been appraised and the full amount of the estimated just compensation has been tendered to him.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 452(2),(3),(4).

Cross-reference: See also, the United States Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, 84 Stat. 1894, 42 U.S.C. 4601 et seq.

§ 206. Interest in improvements.

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In acquiring any interest in real property the Government will acquire at least an equal interest in all building structures or other improvements located on that real property which will be removed or which will be adversely affected by the completed project.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 453.

§ 207. Payments for improvements by tenants.

(1) In the case of the building structure or other improvements owned by the tenant on real property acquired for a project to which this chapter applies the Government will, subject to subsection (2) of this section, pay the tenant the larger of:

- (a) the fair market value of the improvement (as established by the government's appraiser), assuming its removal from the property; or
- (b) the enhancement to the fair market value of the real property.

(2) Payments will also be made for improvements that are damaged as well as those which must be removed.

(3) A payment may not be made to a tenant under subsection (1) of this section unless;

- (a) the tenant, in consideration for the payment, assigns, transfers, and releases to the Government all his rights, title, and interest in the improvements;
- (b) the owner of the land involved disclaims any interest in the improvements; or
- (c) the payment is not duplicated by any payment otherwise authorized by law or regulation.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 454.

§ 208. Expenses incidental to transfer of title.

As soon as possible after real property has been acquired, the Government shall reimburse the owner for:

- (1) recording fees, taxes, and similar expenses incidental to conveying the real property to the agency; and
- (2) the penalty cost for prepayment of any preexisting recorded mortgage entered into in good faith and encumbering the real property.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 455.

§ 209. Authority of High Commissioner to promulgate regulations.

The High Commissioner shall have authority to issue regulations to implement this chapter.

Source: COM PL 6-71 § 1 (part); TT Code 1980, 67 TTC 456.

CHAPTER 3
Relocation Assistance

SECTIONS

- § 301. Declaration of policy.
- § 302. Definitions.
- § 303. Relocation payments for actual moving and related expenses.
- § 304. Displaced person's option to receive moving and dislocation allowances.
- § 305. Displaced person's option to receive payment based on business earnings.
- § 306. Replacement housing for homeowners.
- § 307. Replacement housing for tenants and certain others.
- § 308. Relocation assistance advisory programs.
- § 309. Assurance of availability of standard housing.
- § 310. Authority of District Administrator to promulgate regulations.
- § 311. Administration.
- § 312. Availability of funds.
- § 313. Payments not to be considered as income or resources.
- § 314. Appeal procedure.

§ 301. Declaration of policy.

The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by Trust Territory Government and district land acquisition programs, or by programs of rehabilitation of buildings or other improvements conducted pursuant to governmental supervision. The policy shall be uniform as to:

- (1) relocation payments;
- (2) advisory assistance;
- (3) assurance of availability of standard housing.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 501.

Editor's note: COM PL 6-71 § 3 provided that this chapter would expire on June 30, 1976. However, the expiration date was postponed; see COM PL 6-102 and COM PL 7-35 § 15; the expiration provision was later repealed by COM PL 7-78.

§ 302. Definitions.

As used in this chapter:

- (1) "Agency" means any department, agency, or instrumentality of the Trust Territory or of a political subdivision of the Trust Territory, or any department, agency, or instrumentality of two or more political subdivisions of the Trust Territory.
- (2) "Business" means any lawful activity, excepting a farm operation, conducted primarily:
 - (a) for the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
 - (b) for the sale of services to the public; or
 - (c) by a nonprofit organization.
- (3) "Displaced person" means any person who, on or after the effective date of this chapter, moves from real property or moves his personal property from real property, as a result of the acquisition of such real property in whole or in part, or as the result of the written order of the acquiring

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agency to vacate real property for a program or project undertaken by an agency, and, solely for the purpose of sections 303, 304, and 308 of this chapter, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(4) “Farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including copra, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

(5) “Person” means any individual, partnership, corporation, or association.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 502.

Editor’s note: Subsections rearranged in alphabetical order in the 1982 edition of this code.

§ 303. Relocation payments for actual moving and related expenses.

If an agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this chapter for:

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the agency; and

(3) actual reasonable expenses in searching for a replacement business or farm.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 503 (1).

§ 304. Displaced person’s option to receive moving and dislocation allowances.

Any displaced person eligible for payments under section 303 of this chapter who is displaced from a dwelling and who elects to accept the payments authorized by this section in lieu of the payments authorized by section 303 of this chapter may receive a moving expense allowance, determined according to a schedule established by the agency, not to exceed \$300, and a dislocation allowance of \$200.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 503(2).

§ 305. Displaced person’s option to receive payment based on business earnings.

(1) Any displaced person eligible for payment under section 303 of this chapter, who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this section in lieu of the payment authorized by section 303 of this chapter, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than \$2,500 nor more than \$10,000.

(2) In the case of a business no payment shall be made under this section unless the agency is satisfied that the business:

(a) cannot be relocated without a substantial loss of its existing patronage; and

(b) is not a part of a commercial enterprise having a least one other establishment not being acquired by the agency, which is engaged in the same or similar business.

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(3) For purposes of this section, the term “average annual net earnings” means one-half of any net earnings of the business or farm operation before Federal, State, and local income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 503(3).

§ 306. Replacement housing for homeowners.

(1) In addition to payments otherwise authorized by this chapter, the agency shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property.

(2) The additional payment shall include the following elements:

(a) the amount, if any, which when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling according to contemporary community standards and adequate to accommodate such displaced person, reasonably accessible to public services and places of employment, and available on the private market. All determinations required to carry out this paragraph shall be determined by regulations issued pursuant to section 310 of this chapter;

(b) the amount, if any, which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of the dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling over the remainder term of the mortgage on the acquired dwelling reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to section 310 of this chapter; and

(c) reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(3) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary according to contemporary community standards not later than the end of the one year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 504.

§ 307. Replacement housing for tenants and certain others.

(1) In addition to amounts otherwise authorized by this chapter, an agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 306 of this chapter, which dwelling was actually and lawfully occupied by the displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling.

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(2) The payment shall be either:

(a) the amount necessary to enable the displaced person to lease or rent, for a period not to exceed four years, a decent, safe, and sanitary dwelling according to contemporary community standards and adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000; or

(b) the amount necessary to enable the person to make a down payment (including incidental expenses described in section 306(2)(c) of this chapter) on the purchase of a decent, safe, and sanitary dwelling according to contemporary community standards and adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$4,000 except that if the amount exceeds \$2,000, the person must equally match any amount in excess of \$2,000 in making the down payment.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 505.

§ 308. Relocation assistance advisory programs.

(1) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this chapter, the agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed in subsection (2) of this section. If the agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer the person relocation advisory services under the program.

(2) Each relocation assistance program required by subsection (1) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) determine the needs of displaced persons, business concerns, and nonprofit organizations for relocation assistance;

(b) assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms;

(c) supply information concerning programs of the Federal, State, and local governments offering assistance to displaced persons and business concerns;

(d) assist in minimizing hardships to displaced persons in adjusting to relocation; and

(e) secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 506.

§ 309. Assurance of availability of standard housing.

Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this chapter, the agency shall assure that, within a reasonable period of time prior to displacement, there will be available in areas not generally less suitable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, dwellings which are decent, safe, and sanitary according to contemporary community standards and which are equal in number to the number of and available to displaced persons who require dwellings and which are reasonably accessible

to the places of employment of said persons, except that regulations issued pursuant to section 310 of this chapter may prescribe situations when these assurances may be waived.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 507.

§ 310. Authority of District Administrator to promulgate regulations.

(1) The District Administrator in each district of the Trust Territory shall adopt rules and regulations necessary to assure that:

(a) the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(b) a displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of payment, may have his application reviewed by the High Commissioner.

(2) The District Administrator may prescribe other regulations and procedures, consistent with the provisions of this chapter.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 508.

§ 311. Administration.

In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the agency with the approval of the High Commissioner may enter into contracts with any individual, firm, association, or cooperation for services in connection with those programs, or may carry out its functions under this chapter through any Federal agency or any department or instrumentality of the Trust Territory or its political subdivisions having an established organization for conducting relocation assistance programs.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 509.

§ 312. Availability of funds.

Funds appropriated or otherwise available to any agency for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this chapter as applied to that purpose or project.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 510.

§ 313. Payments not to be considered as income or resources.

No payment received by a displaced person under this chapter shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any Trust Territory law, or for the purposes of any Trust Territory tax laws. These payments shall not be considered as income or resources of any recipient of public assistance and the payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 511.

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§ 314. Appeal procedure.

Any person or business concern aggrieved by a final administrative determination pursuant to section 310(1)(c) of this chapter concerning eligibility for relocation payments authorized by this chapter may appeal that determination to the Trial Division of the High Court in the area in which the land taken for public use is located or the rehabilitation program is conducted.

Source: COM PL 6-71 § 2 (part); TT Code 1980, 67 TTC 512.

CHAPTER 4
Alien Property

SECTIONS

- § 401. Alien property defined.**
- § 402. Alien property custodian.**
- § 403. District property custodians.**
- § 404. Prohibited acts.**
- § 405. Power of custodian to void transactions.**

§ 401. Alien property defined.

Alien property, as used in this chapter, includes property situated in the Trust Territory which was formerly owned by private Japanese nationals, by private Japanese organizations, by the Japanese Government, or by Japanese Government organizations, agencies, quasi-corporations, or government-subsidized corporations. Such property shall be deemed to include tangible and intangible assets, as well as any right, title, or interest therein.

Source: TT Code 1966 § 532; TT Code 1970, 27 TTC 1; TT Code 1980, 27 TTC 1.

§ 402. Alien property custodian.

(1) The Attorney General shall act as alien property custodian, and as such is authorized and empowered to vest title of all alien property as defined in this chapter in the alien property custodian and to take immediate possession of all alien property in the Trust Territory.

(2) Under such vesting order, the alien property custodian is empowered to hold, use, administer, liquidate, sell, or otherwise deal with alien property in the interest and for the benefit of the indigenous inhabitants of the Trust Territory, in accordance with the terms of the trusteeship agreement, and is further empowered to direct, manage, supervise, and control any business enterprises connected with such property.

(3) The alien property custodian is empowered to assume custody, distinguished from title, of all property in the Trust Territory owned by allied Governments or nationals sequestered by the enemy and of all other property owned by non-Japanese persons who are absent from the Trust Territory, are making no attempt to assert possession thereover, and who have no agent present in the area. With reference to such property, the alien property custodian shall:

- (a) provide protection and security for the property;
- (b) assume full authority for the direction, management, and operation of the property;
- (c) utilize the property to the best interests of the Government of the Trust Territory and of the indigenous inhabitants of the area; and
- (d) in the management of such property, act in accordance with the principle of usufruct for the benefit of the indigenous inhabitants of the Trust Territory.

(4) The alien property custodian is authorized and empowered to take such action as he deems necessary in the interest of all persons concerned to direct, manage, supervise, and control all properties which come within the purview of this chapter. He is further empowered to issue all such orders, rules, regulations, or other instructions as may be requisite for executing or carrying out the provisions of this chapter, subject to the approval of the High Commissioner.

Source: TT Code 1966 § 533; TT Code 1970, 27 TTC 2; TT Code 1980, 27 TTC 2.

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Editor's note: Subsections (1) and (2) previously appeared as a single subsection prior to the 1982 edition of this code.

§ 403. District property custodians.

(1) There shall be a district property custodian appointed for each district of the Trust Territory by the High Commissioner from nominations submitted by the District Administrators and approved by the Attorney General.

(2) District property custodians, under the supervision of the alien property custodian, shall be responsible for the control and administration of all alien property in the district for which they are appointed, including responsibility for conducting investigations to locate alien property, and representing the Trust Territory in all legal actions involving alien or suspected alien property.

Source: TT Code 1966 § 534; TT Code 1970, 27 TTC 3; TT Code 1980, 27 TTC 3.

§ 404. Prohibited acts.

Any person who knowingly and without lawful authority:

(1) interferes with or obstructs the alien property custodian or his assistants in the exercise of any of the functions prescribed by this chapter; or

(2) interferes with, removes, damages, conceals, or makes away with any property which the alien property custodian has vested or is authorized to take into his control; or

(3) interferes with, removes, damages, conceals, or makes away with any property with intent to defeat, evade, or avoid any responsibility, fine, or punishment; or

(4) withholds any information or document which the alien property custodian is entitled to receive, or makes any false statements, or uses or refers to any false document in order to mislead the alien property custodian as to any of the purposes of this chapter; or

(5) violates any other provisions, orders, rules, or regulations issued pursuant to this chapter, shall be tried before a court of proper jurisdiction and upon conviction shall be imprisoned for a period of not more than one year, or fined not more than \$1,000, or both.

Source: TT Code 1966 § 535; TT Code 1970, 27 TTC 4; TT Code 1980, 27 TTC 4.

§ 405. Power of custodian to void transactions.

The alien property custodian may, upon approval of the High Commissioner, by order, direct that any transaction or commitment made at any time with regard to property under his jurisdiction be set aside and held null and void, if, in his opinion, the transaction was made to defeat, evade, or avoid any provision of this chapter, or any lawful responsibility, fine, or punishment imposed or to be imposed on any person.

Source: TT Code 1966 § 536; TT Code 1970, 27 TTC 5; TT Code 1980, 27 TTC 5.