

**TITLE 4**  
**JUDICIARY**



## TITLE 4 JUDICIARY

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### CHAPTER 1 ESTABLISHMENT AND ORGANIZATION OF JUDICIARY

#### Section

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**§1-101. Short title.** — Chapters 1 to 9 are known and may be cited as the “Pohnpei Judiciary Act of 1995.”

Source: S.L. No. 3L-99-95 §1-1, 7/20/95

**§1-102. Judicial authority.** —

(1) The judicial authority of the state of Pohnpei is vested in the Pohnpei Supreme Court, the Court of Land Tenure, the Court of Traffic and Misdemeanor Offenses, and such other courts as may from time to time be established by statute.

(2) The courts of this state may function as, or appoint qualified persons to function as arbitration, mediation or conciliation bodies or boards, as may be prescribed by law or rule.

Source: S.L. No. 3L-99-95 §1-2, 7/20/95

**§1-103. Seals.** — The Pohnpei Supreme Court shall have a seal that shall be kept in the custody of the Clerk thereof. Other courts of this state may have seals, which shall be kept in the custody of their respective judges.

Source: S.L. No. 3L-99-95 §1-3, 7/20/95

**§1-104. Judicial officers and personnel. —**

(1) Justices and judges of the judiciary branch of the Pohnpei Government shall be appointed in the manner and shall be subject to the qualifications of office prescribed in Article 10 of the Pohnpei Constitution and Chapter 1 through Chapter 9 of this title.

(2) The compensation of justices and judges shall be as prescribed by such reapportionment statutes for the compensation of the appointed and elected officers of the Pohnpei Government as may from time to time be enacted pursuant to Article 10 §8 and Article 13 §8 of the Pohnpei Constitution. Justices and judges of the judiciary branch of the Pohnpei Government shall not be eligible to receive vacation leave, annual leave or sick leave, nor shall they be eligible to convert the same into its cash equivalent.

(3) The Chief Justice of the Pohnpei Supreme Court shall appoint a Clerk of the Supreme Court, and such other assistant clerks and employees as are needed to conduct court business. Such employees shall be subject to the personnel system and compensation plans of the judiciary branch as established by statute and court order.

(4) The personnel system for the judiciary branch and the classification of employees thereunder shall, to the extent practicable, be parallel to the personnel system and employee classifications established for the executive branch.

(5) The Chief of the Division of Personnel, Labor and Manpower Development is authorized and directed to assist the Chief Justice, upon request, to establish and periodically evaluate employee classifications within the personnel system for the judiciary branch, to administer examinations, to advertise for personnel, and to provide for such other personnel services as are normally rendered to any agency of the executive branch.

(6) The Chief Justice of the Supreme Court may, in accordance with the personnel system of the judiciary branch, appoint and assign law clerks to assist the justices and judges of the state; PROVIDED that assistance and advice given by the law clerks shall not be that required of an assessor as prescribed by §1-105. If such advice is required of a law clerk, he shall be deemed an assessor and be subjected to the law and rules pertaining thereto. Any party to a trial or hearing may request of the presiding or ruling justice or judge for an accounting of the law clerk's participation in the judicial decision-making processes to determine compliance with this provision. Law clerks shall be accountable as judges with respect to the application of judicial standards prescribed by Chapter 7.

(7) To the maximum extent practicable, the Chief Justice shall provide for the sharing of personnel among the various courts of this state and may enter into cooperative agreements with the national and local governments for the temporary assignment of judicial officers and administrative personnel to and from the judiciaries of said governments.

(8) The Chief Justice of the Supreme Court may discipline or remove any officer or employee of the judiciary branch for good cause pursuant to procedures prescribed therefor in the personnel system of the judiciary branch, subject to appeal to the full Supreme Court.

Source: S.L. No. 3L-99-95 §1-4, 7/20/95; S.L. No. 5L-14-00 §3-32, 10/1/00

**§1-105. Assessors. —** Any justice or judge of a court of this state may appoint one or more assessors to advise him at the trial or hearing of any case with respect to law or custom or such other matters requiring specialized knowledge. All such advice shall be of record and the assessors shall be subject to examination and cross-examination by any party.

Source: S.L. No. 3L-99-95 §1-5, 7/20/95

**§1-106. Judicial administration. —**

(1) The court system of this state shall be unified under the administrative supervision of the Chief Justice of the Pohnpei Supreme Court. He shall have the authority to promulgate administrative rules governing all courts and activities of the judiciary branch of this state.

(2) The Chief Justice of the Supreme Court shall establish and maintain a manual of administration for the judiciary branch that shall, among other things, provide for the assignment and description of duties for staff, direction of office responsibilities, and accountability for the attainment and management of judicial properties.

Source: S.L. No. 3L-99-95 §1-6, 7/20/95

**§1-107. Judicial budget. —**

(1) The budget for the judiciary branch shall be prepared by the Chief Justice independently from the budget processes of the executive branch; PROVIDED that the Chief Justice shall give due consideration to budget ceilings and recommendations issued by the Governor.

(2) The budget shall include an accounting of all expected sources of financing for the judiciary, inclusive of grants and other receipts from the national and local governments and other sources.

(3) The budget shall be submitted to the Legislature through the office of the Governor as a part of the overall budget presentation for the state and shall conform to the requirements provided by law for the submission of budget documents generally by the executive branch.

Source: S.L. No. 3L-99-95 §1-7, 7/20/95

**§1-108. Authorization for appropriation; administration. —**

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such other funds of the Pohnpei Treasury as may be established to support the judiciary branch of the Pohnpei Government such sums as may be determined and allocated annually in the Comprehensive Budget Act, or so much thereof as may be necessary, to finance the operations of the judiciary branch.

(2) All sums so appropriated shall be administered and expended by the Chief Justice solely for the operations of the judiciary branch as specified by Chapter 1 through Chapter 9 of this title.

(3) Any balance of the sums appropriated under the authorization of this section for a fiscal year not expended or obligated for expenditure on September 30 each year shall revert to the respective fund of the Treasury from which it was appropriated.

(4) The Chief Justice, subject to applicable statutes controlling the request, receipt, and use of grants and other modes of financial assistance from sources within and without the state, may receive and expend such grants and assistance for the support of the activities of the judiciary branch of this state.

(5) The Chief Justice shall submit an annual report to the Legislature on or before October 15 detailing all financial activities of the judiciary branch for the preceding fiscal year.

Source: S.L. No. 3L-99-95 §1-8, 7/20/95

**§1-109. Financial administration. —**

(1) Subject to the availability of funds, the Financial Organization and Management Act, Title 11 Chapter 2, and the requirements of Chapter 1 through Chapter 9 of this title, the Director shall make all disbursements requested by the Chief Justice, except for disbursements for which no allotments have been made or disbursements which would cause a specific allotment to be exceeded.

(2) The Chief Justice shall be responsible for the proper expenditure of all funds appropriated to or otherwise received by the judiciary branch and is authorized to establish such administrative rules and procedures, including the retention of independent auditors, as may be necessary and as are consistent with state law to ensure the proper expenditure and accounting of such funds.

Source: S.L. No. 3L-99-95 §1-9, 7/20/95

**§1-110. State of the judiciary report. —** The Chief Justice of the Pohnpei Supreme Court shall, during the Governor's state of the state address and during the first regular legislative session each year at such times as may be agreed upon by the Chief Justice and the Speaker of the Pohnpei Legislature, provide a written report to the Legislature and the Governor on the state of the judiciary,

that report shall include the predominant judicial events and accomplishments for the previous year and planned developments for the judiciary branch in the present and future years. The Chief Justice shall include in the report such topics as may be required by law and such other matters as the Chief Justice deems appropriate to raise before the Legislature.

Source: S.L. No. 3L-99-95 §1-10, 7/20/95; S.L. No. 7L-53-09 §1, 12/23/09

## CHAPTER 2 GENERAL POWERS, AUTHORITY, AND JURISDICTION

### Section

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2-102 Rules	2-107 Right to timely action
2-103 Authority to administer oaths, take acknowledgments, and exercise powers of notary public	2-108 Territorial jurisdiction
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2-105 Sessions, records, and decisions to be public; exceptions	2-110 Jurisdiction over persons by act
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### **§2-101. General powers of the courts. —**

(1) The courts of this state shall have the power to issue all writs and other process, make rules and orders, and do all acts not inconsistent with law or with the rules established with respect to the judiciary in general or the specified court in particular.

(2) The courts of this state may, with respect to cases and persons within their jurisdiction, grant bail and writs of habeas corpus, and cause forfeit of security therefor; make orders for the attendance of witnesses with or without documents; and make orders for the disposal of exhibits, except that no exhibit shall be destroyed without the consent of the party who presented it.

Source: S.L. No. 3L-99-95 §3-1, 7/20/95

**§2-102. Rules. —** The Pohnpei Supreme Court, by majority vote of its justices and after public notice and hearing from all interested parties, shall promulgate rules of court and of civil and criminal procedure, evidence, and for the admission and discipline of counsel. Such rules shall, to the extent practicable, have uniform application in all courts of this state. The rules shall, among other things, provide for a single form of action for all civil cases, and shall make liberal provision for the intervention and joinder of parties and claims, and for discovery, to provide full and fair adjudication of all cases. Where authorized by statute, after public notice and hearing from all interested parties, and upon concurrence of the Chief Justice of the Supreme Court, other courts of the state may promulgate rules pertaining to their special circumstances.

Source: S.L. No. 3L-99-95 §3-2, 7/20/95

**§2-103. Authority to administer oaths, take acknowledgments, and exercise powers of notary public. —** Each justice, the Clerk and assistant clerks of the Pohnpei Supreme Court, and each judge of the other courts of this state shall have the authority to administer oaths and affirmations, take acknowledgments, and exercise all powers of notary public.

Source: S.L. No. 3L-99-95 §3-3, 7/20/95

### **§2-104. Court sessions. —**

(1) The Pohnpei Supreme Court shall be in continuous session at Kolonia, subject to recess. It shall hold sessions in other areas of the state on a regular basis whenever required by the public interest.

(2) The other courts of this state shall be in session pursuant to Chapter 1 through Chapter 9 of this title, the rules established by the Supreme Court, and the rules of the particular court.

Source: S.L. No. 3L-99-95 §3-4, 7/20/95

**§2-105. Sessions, records, and decisions to be public; exceptions. —**

(1) All sessions and records of the courts of this state shall be public; PROVIDED that the courts may order certain sessions to be closed or specific records suppressed for good cause that shall be identified in the public record. All decisions shall be public.

(2) Any person desiring to attend any session that has been closed or view any record that has been suppressed may petition the court closing the session or having suppressed the record. Any interested person may appeal the action of the court on said petition as provided by law for appeals generally.

Source: S.L. No. 3L-99-95 §3-5, 7/20/95

**§2-106. Contempt. —**

(1) Any justice or judge shall have the power to punish contempt of court. Contempt of court is:

(a) Any intentional obstruction of the administration of justice by any person, including any clerk or officer of the court acting in his official capacity; or

(b) Any intentional disobedience or resistance to the court's lawful writ, process, order, rule, decree or command.

(2) All adjudications of contempt shall be pursuant to the following practices and procedures:

(a) Any person accused of committing any civil contempt shall have a right to notice of the charges and opportunity to present a defense and mitigation. A person found in civil contempt may be imprisoned until such time as he complies with the order or pays an amount necessary to compensate the injured party, or both;

(b) Any person accused of committing criminal contempt shall have a right of notice of the charges and opportunity to present a defense and mitigation; PROVIDED, HOWEVER, that no punishment of a fine of more than \$100 or any imprisonment shall be imposed unless the accused is given a right to notice of the charges; to a speedy public trial; to confront the witnesses against him; to compel the attendance of witnesses in his behalf; to have the assistance of counsel; and to be released on bail pending adjudication of the charges. He shall have a right to be charged within three months of the contempt and a right not to be charged twice for the same contempt; and

(c) A person found to be in criminal contempt of court shall be fined not more than \$500, or imprisoned not more than three months, or both such fine and imprisonment.

(3) Any adjudication of contempt is subject to appeal as provided by law. Any punishment of contempt may be stayed pending appeal, but a punishment of imprisonment shall be stayed on appeal automatically, unless the court finds that a stay of imprisonment will cause an immediate obstruction of justice, which finding must be supported by written findings of fact. A denial of a stay of imprisonment is subject to review.

Source: S.L. No. 3L-99-95 §3-6, 7/20/95

**§2-107. Right to timely action. —**

(1) Persons appearing before the courts of this state shall have the right to timely commencement of actions as well as timely decisions by the justice(s) or judge(s) hearing the case or appeal. Unless good cause is shown, justices and judges shall commence proceedings within 90 days of the filing of an action at the Pohnpei Supreme Court. Justices and judges shall render a decision on a matter put before them within 90 days following the close of oral proceedings in a trial and within 120 days following the close of oral arguments in an appeal.

(2) For purposes of enforcement of this section, the chief clerk of each court of this state shall file a monthly statement with the Director of the Department of Treasury and Administration and the Public Auditor. The monthly statement shall contain, but not be limited to, a complete listing of every pending action filed with the court, the date filed, the status of all trial and appeal cases active before the court without decision for more than 90 days or 120 days, respectively, following the close of oral proceedings or arguments thereon and the name of the justice(s) or judge(s) responsible for rendering a decision thereon.

Source: S.L. No. 3L-99-95 §3-7, 7/20/95; S.L. No. 5L-14-00 §3-32, 10/1/00

**§2-108. Territorial jurisdiction.** — The jurisdiction of the Pohnpei Supreme Court shall extend to the whole of the state. The territorial jurisdiction of other courts of the state shall be as provided by statute.

Source: S.L. No. 3L-99-95 §4-1, 7/20/95

**§2-109. Jurisdiction over persons: civil.** — The courts of this state may exercise personal jurisdiction in civil cases only over persons found within this state or such lesser area as may be prescribed by statute, except as provided in §2-111.

Source: S.L. No. 3L-99-95 §4-2, 7/20/95

**§2-110. Jurisdiction over persons by act.** — Any person, corporation or legal entity, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts enumerated in this section, thereby submits himself or its personal representative to the jurisdiction of the courts of this state as to any cause of action arising from:

- (1) The transaction of any business within the state;
- (2) The operation of a motor vehicle within the state;
- (3) The operation of a vessel or craft within the territorial waters or airspace of this state;
- (4) The commission of a tortious act within the state;
- (5) Contracting to insure any person, property or risk located within this state at the time of contracting;
- (6) The ownership, use or possession of any interest in real estate, inclusive of leasehold interests, within this state;
- (7) Entering into an express or implied contract, by mail or otherwise, with a resident of this state, to be performed in whole or in part by either party in this state;
- (8) Acting within this state as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business within this state, or as executor or administrator of any estate within this state;
- (9) Causing injury to persons or property within this state arising out of an act or omission outside of this state by the defendant; PROVIDED that, in addition, at the time of the injury either:
  - (a) The defendant was engaged in the solicitation or sales activities within this state; or
  - (b) Products, materials, or things processed, serviced or manufactured by the defendant anywhere were used or consumed within this state; and
- (10) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all obligations arising for alimony, child support or property rights under applicable law, if the other party to the marital relationship continues to reside in this state.

Source: S.L. No. 3L-99-95 §4-3, 7/20/95

**§2-111. Effect of jurisdiction limited.** — Only causes of action arising from acts or omissions enumerated in §2-110 may be asserted against a defendant in an action in which jurisdiction is based on §2-110.

Source: S.L. No. 3L-99-95 §4-4, 7/20/95

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## CHAPTER 3 POHNPEI SUPREME COURT

### Section

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3-103 Qualifications of Pohnpei Supreme Court Justices	3-106 Appellate jurisdiction
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**§3-101. The Pohnpei Supreme Court to be the highest court.** — Pursuant to Article 10 §4 of the Pohnpei Constitution, the Pohnpei Supreme Court shall be the highest court and the court of last resort for the state of Pohnpei.

Source: S.L. No. 3L-99-95 §16-1, 7/20/95

**§3-102. Composition of the Pohnpei Supreme Court.** — The Pohnpei Supreme Court shall consist of a Chief Justice, not more than four permanent associate justices, and such alternate and temporary associate justices as prescribed by §3-103. Justices shall be appointed in the manner prescribed by Article 10 §3 of the Pohnpei Constitution and shall serve for such terms as prescribed by Article 10 §7 of the Pohnpei Constitution or Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §16-2, 7/20/95; S.L. No. 4L-36-97 §1, 5/20/97

**§3-103. Qualifications of Pohnpei Supreme Court Justices.** —

(1) *Chief Justice and permanent associate justices.* A person appointed to the position of Chief Justice or permanent associate justice of the Pohnpei Supreme Court shall:

- (a) Be at least 35 years of age at the time of nomination and not have been convicted of felony;
- (b) Be a graduate from an accredited law school and be admitted to practice law before the National Supreme Court or the highest court of any State of the Federated States of Micronesia, or before the United States of America Supreme Court or the highest court of any State thereof; or be a person of demonstrated legal ability obtained through at least five years of practicing law within the State of Pohnpei, the National Government of the Federated States of Micronesia, or the former Trust Territory; and
- (c) Have been a citizen and resident of the State of Pohnpei for a cumulative total of at least ten years and at least five years immediately preceding his appointment.

(2) *Alternate associate justices.* In consultation with the Chief Justice, the Governor may appoint non-citizen alternate associate justices, subject to the advice and consent of the Legislature. The term of an alternate associate justice shall be for two years. An incumbent alternate associate justice may be reappointed subject to the advice and consent of the Legislature. A person appointed to the position of alternate associate justice shall meet the qualifications of Paragraph (a) and (b) of Subsection (1) of this section; PROVIDED that in making alternate appointments to the Supreme Court, the Governor shall select persons who possess extensive experience and learned respect in fields of the law which are important to the growth and maturity of the State judiciary. The Governor in making such appointments may enter into cooperative agreements with the governors of other FSM states and with the chief executives of other jurisdictions in the region for the mutual selection and support of prominent jurists as alternate justices to serve the common needs of island jurisdictions in specialty areas of the law which are new to the island courts or in other areas of the law in which judicial conflicts of interest among permanent, resident justices are likely to occur. In the instance where two or more jurisdictions join together for the mutual appointment of prominent jurists to be shared among the highest courts of said jurisdictions, the Chief Justice of the Pohnpei Supreme Court may enter into agreements with the presiding judges of the highest courts of other affected jurisdictions for the purpose of coordinating the sittings, compensation and costs of utilizing such alternate justices.

(3) *Temporary associate justices.* The Governor may, in consultation with the Chief Justice, appoint temporary associate justices, subject to the advice and consent of the Legislature. The term of a temporary associate justice shall be for two years. An incumbent temporary associate justice may be reappointed, subject to the advice and consent of the Legislature. A person appointed to the position of temporary associate justice shall meet the qualifications of Paragraphs (a), (b), and (c) of Subsection (1) of this section; PROVIDED that in making temporary appointments to the Supreme Court, the Governor shall select persons who possess extensive experience and learned respect in fields of the law which are important to the growth and maturity of the State judiciary.

Source: S.L. No. 3L-99-95 §16-3, 7/20/95; S.L. No. 4L-36-97 §2, 5/20/97

**§3-104. Divisions of the Pohnpei Supreme Court.** — The Pohnpei Supreme Court shall consist of the Trial Division and the Appellate Division. The Trial Division shall consist of the Chief Justice and the associate justices; PROVIDED, HOWEVER, that sessions of the Trial Division may be held by any justice alone. The Appellate Division shall consist of three justices assigned thereto by the Chief Justice, two of whom shall constitute a quorum. Either the Chief Justice or any associate justice may also sit as a member of the three-justice Appellate Division; PROVIDED that he has not heard the case as a justice of the Trial Division. The concurrence of two justices shall be necessary to a determination of any appeal by the Appellate Division, but a single justice, subject to appeal to the full Appellate Division, may make all necessary orders concerning any appeal prior to the hearing and determination thereof, and may dismiss an appeal for want of jurisdiction, or failure to take or prosecute it in accordance with the applicable law or rules of procedure, or at the request of the appellant.

Source: S.L. No. 3L-99-95 §16-4, 7/20/95

**§3-105. Original jurisdiction of the Trial Division.** — The Trial Division of the Pohnpei Supreme Court shall have original jurisdiction to try all causes, civil and criminal, including probate, admiralty, maritime, and airspace matters within the jurisdiction of the state, and the adjudication of title to land or any interest therein.

Source: S.L. No. 3L-99-95 §16-5, 7/20/95

**§3-106. Appellate jurisdiction.** — The Appellate Division of the Pohnpei Supreme Court shall have appellate jurisdiction over all causes of action brought in the Trial Division of the Pohnpei Supreme

Court. The Trial Division of the Pohnpei Supreme Court shall have appellate jurisdiction over such causes of action brought in the lower courts of the state as prescribed by 57 PC 6-102.

Source: S.L. No. 3L-99-95 §16-6, 7/20/95

Note: A portion of this section which reads “and in matters referred to it by the FSM Supreme Court and the courts of the local jurisdictions of Pohnpei” has been omitted. This part of the provision was declared unconstitutional and void to the extent of its inconsistency with Article 10 §4(3) of the Pohnpei Constitution, *see Katerson v. Gallen* (Pon. S. Ct. App. 2006).

**§3-107. Order of succession to position of Chief Justice.** — Whenever the Chief Justice is unable to perform the duties of his office or the office is vacant, due to “incapacity of indefinite time,” either due to a physical or mental disability of some duration, death or other immediate personal incapacity, his powers and duties shall devolve upon the associate justice next in precedence who is able to act, until such disability is removed or another chief justice is appointed and duly qualified. For purposes of Chapter 1 through Chapter 9 of this title, associate justices shall have precedence according to the seniority of their commissions. Justices whose commissions bear the same date shall have precedence according to seniority in age.

Source: S.L. No. 3L-99-95 §16-7, 7/20/95

Note: §16-7 was inserted by S.L. No. 4L-114-99 §1, 7/20/99.

## **CHAPTER 4 [RESERVED]**

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**CHAPTER 5**  
**COURT OF TRAFFIC AND MISDEMEANOR OFFENSES**  
**[PENDING, *see* 4 PC 5-108]**

## Section

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5-102 Composition of the Court of Traffic and Misdemeanor Offenses	5-106 Filing of record
5-103 Qualifications of judges	5-107 Rehabilitation programs
5-104 Jurisdiction	5-108 Effective date

**§5-101. Establishment.** — There is hereby created in and for the state of Pohnpei, the Court of Traffic and Misdemeanor Offenses.

Source: S.L. No. 3L-99-95 §18-1, 7/20/95

**§5-102. Composition of the Court of Traffic and Misdemeanor Offenses.** — The Court of Traffic and Misdemeanor Offenses shall consist of a Presiding Judge and not more than two associate judges as prescribed by §5-103. Judges of the Court of Traffic and Misdemeanor Offenses shall be appointed by the Governor with the advice and consent of the Legislature for terms of four years. Judges may be reappointed.

Source: S.L. No. 3L-99-95 §18-2, 7/20/95

**§5-103. Qualifications of judges.** — A person appointed to be a judge of the Court of Traffic and Misdemeanor Offenses shall:

- (1) Be at least 30 years of age at the time of his or her nomination;
- (2) Have been a citizen and resident of the state of Pohnpei for a cumulative total of at least five years and at least three years immediately preceding his or her nomination; and
- (3) Have at least five years of demonstrable experience in the administration, enforcement, prosecution, defense or adjudication of criminal law.

Source: S.L. No. 3L-99-95 §18-3, 7/20/95

**§5-104. Jurisdiction.** — The territorial jurisdiction of the Court of Traffic and Misdemeanor Offenses extends to the whole of Pohnpei State. The subject matter jurisdiction of the court shall be concurrent with the Trial Division of the Pohnpei Supreme Court in all traffic and criminal cases that carry a maximum fine of not more than \$1,000 or a maximum term of imprisonment of not more than one year, or both such fine and imprisonment, and in juvenile proceedings in which the action involves a minor charged with a violation of such traffic or criminal law.

Source: S.L. No. 3L-99-95 §18-4, 7/20/95

**§5-105. Sessions, compensation, and procedures.** — Sessions of the Court of Traffic and Misdemeanor Offenses, the compensation of its judges, and its rules of procedure shall be as provided therefor under Chapters 1, 2 and 7 of this title, the current reapportionment act for the compensation of officers of the Pohnpei Government, and the rules of court.

Source: S.L. No. 3L-99-95 §18-5, 7/20/95

**§5-106. Filing of record.** — As promptly as possible after the final judgment of a case in the Court of Traffic and Misdemeanor Offenses has been entered, the judge thereof shall send a copy of the

judgment to the Clerk of the Pohnpei Supreme Court who shall maintain a permanent record of all such court decisions.

Source: S.L. No. 3L-99-95 §18-6, 7/20/95

**§5-107. Rehabilitation programs.** — The Court of Traffic and Misdemeanor Offenses is hereby authorized and directed to undertake on its own initiative and to cooperate with other entities in the establishment and operation of programs of rehabilitation of offenders brought before the court. In the establishment and operation of such programs the court shall concentrate on youthful offenders and on alternative sentencing designed to reintegrate youthful offenders into the mainstream of society.

Source: S.L. No. 3L-99-95 §18-7, 7/20/95

**§5-108. Effective date.** — Notwithstanding the effective date of S.L. No. 3L-99-95 [*July 20, 1995*], this chapter shall take effect upon adoption by the Legislature of a budget to organize and finance the operations of the Court of Traffic and Misdemeanor Offenses.

Source: S.L. No. 3L-99-95 §18-8, 7/20/95

## CHAPTER 6 COURT OF LAND TENURE

### Section

<p>6-101 Purpose</p> <p>6-102 Definitions and references</p> <p>6-103 Court of Land Tenure</p> <p>6-104 Administrative direction; promulgation of rules and regulations; procedural authority; officers and employees of the Court; appointment of assessors</p> <p>6-105 Designation of land registration areas</p> <p>6-106 Jurisdiction of the Pohnpei Supreme Court</p> <p>6-107 Delineation of land registration areas; surveys of plots and boundaries</p> <p>6-108 Venue hearings</p> <p>6-109 Disputed claims; procedure</p> <p>6-110 Notice of hearing</p> <p>6-111 Conduct of hearing</p>	<p>6-112 Hearing involving a minor or incompetent; representative to be appointed</p> <p>6-113 Notice of determination of ownership</p> <p>6-114 Appeal from a determination of the Court of Land Tenure</p> <p>6-115 Issuance of certificate of title</p> <p>6-116 Register of Titles and Interests in Land; custody of Register; copies of certificates</p> <p>6-117 Transfers and encumbrances of interests in registered lands</p> <p>6-118 Hearing and determinations required by Title 42 Chapter 3</p> <p>6-119 Hearing and determination of heirship</p> <p>6-120 Hearing and determination of interests in public land prior to lease</p>
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**§6-101. Purpose.** — The purpose of this chapter is to provide for the mechanisms to complete the process begun during the Trusteeship of title investigation, determination, and registration of interests in lands within this state and to provide for the means to develop and maintain a singular system of filing all recordable interests in land.

Source: S.L. No. 3L-99-95 §17-1, 7/20/95

**§6-102. Definitions and references.** — As used in this chapter, unless the context clearly requires otherwise:

(1) “Court of Land Tenure” or “court” shall refer to the Court of Land Tenure for the state of Pohnpei created by this chapter;

(2) “Interests in land” shall refer to every interest in land, inclusive of, but not limited to, easements; covenants that run with the land; riparian rights where applicable; leaseholds and interests in condominium properties;

(3) “Judge” or “judges” shall refer to the judge or judges of the Court of Land Tenure;

(4) “Land” shall refer to all forms of real property and all permanent improvements and attachments thereto;

(5) “Land Commission” shall refer to the Land Commission for the District of Ponape and thereafter of the state of Pohnpei established pursuant to 67 TTC (1980);

(6) “Register of Titles and Interests in Land” or “Register” shall refer to the book or books in which the registration and recordation of all titles and other forms of land ownership or rights in land are filed; and

(7) “Registration area” shall refer to any site that has been duly designated as an official land registration area for the purpose of conducting the business of the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-2, 7/20/95

**§6-103. Court of Land Tenure.** —

(1) There is hereby created within the judiciary branch of the Pohnpei Government a Court of Land Tenure which shall consist of a Principal Judge and not more than two associate judges.

(2) The Court of Land Tenure is authorized and empowered, subject to Chapter 1 through Chapter 9 of this title and other state law, to hear and determine claims of ownership, heirship, interest, right, and boundary to land within the state of Pohnpei and to inquire and determine whether any transfer of an interest in land is in conformity with the requirements of Article 12 §5 of the Pohnpei Constitution. The primary purpose of the court shall be to proceed in the manner in which the court determines to be in the best interest of the people to accomplish the determination and registration of title and other property interests to as many of the land parcels as practical within such registration areas as the court may designate.

(3) Except as provided in Subsection (5) of this section, the Principal Judge and associate judges shall be appointed by the Governor with the advice and consent of the Legislature.

(4) No person may be appointed or serve as a judge of the Court of Land Tenure unless he or she:

- (a) Is a citizen and pweldak of Pohnpei;
- (b) Is at least 35 years of age;
- (c) Is a college graduate or a person of demonstrated legal ability through at least five years of experience practicing law or as a full-time judge of a state court, inclusive of the Land Commission;
- (d) Is of good moral character; and
- (e) Has not been convicted of a felony.

(5) Each judge of the Court of Land Tenure shall serve for a term of six years or until a successor is confirmed. Judges may be reappointed.

(6) Sessions of the Court of Land Tenure and the compensation of its judges shall be as provided therefor under Chapters 1, 2, and 7.

(7) Judges of the Court of Land Tenure may be disciplined or removed from office in accordance with Chapter 1 through Chapter 9 of this title, other state law, and the rules of judicial conduct promulgated by the Pohnpei Supreme Court with respect to the ethics and conduct of judges generally or with respect to the judges of the Court of Land Tenure specifically. In addition, the judges shall be bound by the rules of judicial conduct promulgated by the Court of Land Tenure pursuant to §6-104.

Source: S.L. No. 3L-99-95 §17-3, 7/20/95

**§6-104. Administrative direction; promulgation of rules and regulations; procedural authority; officers and employees of the Court; appointment of assessors. —**

(1) The Court of Land Tenure shall perform its functions under the administrative direction of the Chief Justice of the Pohnpei Supreme Court.

(2) Consistent with state law and the rules of the Supreme Court, the Court of Land Tenure may promulgate rules and regulations for implementing Chapter 1 through Chapter 9 of this title and other state statutes that provide the court with additional jurisdiction or duties. Such rules and regulations shall have the force and effect of law and a copy thereof shall be filed with the Clerk of the Supreme Court. For administrative purposes, each judge shall perform his or her functions under the supervision of the Principal Judge; PROVIDED, HOWEVER, that all judges of the Court of Land Tenure are to be allowed and shall be expected to exercise independence in judgment when conducting hearings and adjudicating land cases.

(3) Subject to state law and the rules applicable to the court, the Principal Judge shall appoint a Clerk of the Court of Land Tenure and such other officers and employees of the court as may be necessary and as the budget of the court permits. Employees of the Court of Land Tenure shall be part of the personnel system of the state judiciary and shall be subject to rights and responsibilities thereunder.

(4) Consistent with the functions and duties of the Court of Land Tenure as provided by Chapter 1 through Chapter 9 of this title, the Principal Judge of the court is empowered to appoint assessors to the court to assist the judges in the conduct of their responsibilities under Chapter 1 through Chapter 9

of this title. Subject to Chapters 1 and 7, the rules of the Court of Land Tenure shall prescribe the proper roles, functions, assignments, terms of office and other administrative concerns with respect to the appointment and use of assessors to the court.

Source: S.L. No. 3L-99-95 §17-4, 7/20/95

**§6-105. Designation of land registration areas. —**

(1) The Court of Land Tenure shall designate a land registration area or areas within which it believes it will be desirable and practicable to register lands. When work in a designated land registration area has been completed except for major disputed cases, or when work in a designated area cannot be completed for good cause, and in the opinion of the court public interest would be served by moving to a new land registration area or areas, it may do so until all lands in all parts of the state are duly registered. In making a determination to move to a new area, the court shall decide whether such move also indicates that, for the immediate present, the court will or will not continue to hear claims in formerly designated areas.

(2) The Clerk of the Court of Land Tenure shall, upon instruction of the Principal Judge, cause a copy of the designation of any land registration area by that court to be filed with the Clerk of the Pohnpei Supreme Court. The Clerk of the Court of Land Tenure shall further notify the Clerk of the Supreme Court of the decision of the Court of Land Tenure whether the court intends to continue to hear claims in previously designated areas.

Source: S.L. No. 3L-99-95 §17-5, 7/20/95

**§6-106. Jurisdiction of the Pohnpei Supreme Court. —**

(1) Nothing in this chapter shall be deemed to deprive the Pohnpei Supreme Court of original trial jurisdiction over cases with respect to interests in land; PROVIDED that the Supreme Court may, in its rules, require persons desiring the registration of interests in land in areas wherein the Court of Land Tenure is actively adjudicating claims to first file their claims with the Court of Land Tenure.

(2) Notwithstanding Subsection (1) of this section and subject to the provision of §3-105, the Clerk of the Supreme Court shall notify the Court of Land Tenure of each incidence when the Supreme Court decides to entertain a land case in a registration area wherein the Court of Land Tenure is actively hearing and adjudicating claims.

(3) The Court of Land Tenure shall not entertain any case already pending before the Supreme Court.

(4) In accordance with 57 PC 6-101 and at any time the Supreme Court determines that it is necessary, after due notice and for good cause explained thoroughly on the record in open court, it may take over jurisdiction of any case pending before the Court of Land Tenure.

(5) Pursuant to 57 PC 6-101, or upon order of the Supreme Court, or upon application of any party to a land case pending before the Court of Land Tenure, or upon a decision of the Court of Land Tenure acting on its own motion, the Court of Land Tenure shall provide for the transfer of the case and a copy of all written records relative thereto to the Supreme Court. Upon receipt of the transfer documents, the Supreme Court may hear the full case, decide on any point relative thereto, and remand the remainder of the case to the Court of Land Tenure, or deny the referral until final action thereon has been taken by the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-6, 7/20/95

**§6-107. Delineation of land registration areas; surveys of plots and boundaries. —** Upon the designation of a land registration area, it shall be the duty of the Director of the Department of Land and Natural Resources to cause an accurate delineation of the exterior bounds of the area so designated and thereafter to make such surveys of plots and place markers to each parcel boundary as the Court of Land Tenure may direct. It shall be the responsibility of the court to conduct negotiations for the location of corners and to point out to surveyors boundaries to be surveyed; PROVIDED,

HOWEVER, that such negotiations and instructions prior to adjudication of claims therein or with respect thereto shall not be binding on the court as to the adjudication of such claims.

Source: S.L. No. 3L-99-95 §17-7, 7/20/95

**§6-108. Venue hearings.** — The Principal Judge of the Court of Land Tenure shall select and instruct one of the judges of the court to conduct initial hearings on claims within a designated land registration area. The designated judge shall, upon his or her selection:

(1) Institute a preliminary inquiry regarding titles to and interests in all lands claimed by persons, real and corporate, families, lineages, clans, the Pohnpei Public Lands Trust Board of Trustees, and other entities, within the area for which the judge is responsible. If satisfied that such claims have any foundation in law or fact, the judge shall record the same for hearing.

(2) When the recording of such claims is complete in the area for which the judge is responsible, the judge shall, after notice as herein prescribed, proceed to hear the parties and witnesses, and adjudicate such claims as are subject to the jurisdiction of the Court of Land Tenure.

(3) The judge shall render a decision on a claim within the time prescribed by §2-107.

(4) Decisions of the judges of the Court of Land Tenure shall be consistent with the Pohnpei Constitution, the laws of this state, the customs and traditions of this state, and the social and geographical configuration of this state. Every justice and judge of the court shall make a diligent inquiry, the results of which shall be recorded in the written decision of the court, to determine whether the requirements of Article 12 §5 of the Pohnpei Constitution have been met. Recourse to interpretations of laws and customs of other jurisdictions shall, in all matters, be secondary to those of this state in finding the law of Pohnpei.

(5) Upon reaching a decision on a claim, the judge shall record the place name and the parcel number of the land with the Clerk of the Court of Land Tenure, or if there be no parcel number and place name, the judge shall provide a brief description of the land so affected by the decision. The judge shall further record with the Clerk, the names or other identifying insignia of those persons and entities found to be the rightful owners thereof and the type of ownership involved, and shall further record with the Clerk the names or other identifying insignia of those persons and entities found to hold any subordinate rights or interests in such lands.

(6) Where parties to a claim agree to a settlement or compromise in the presence of the judge designated to hear the claim, the particulars required by Subsection (5) of this section shall be recorded by the judge with the Clerk and shall have the same force and effect as a decision of the judge.

(7) Upon completion of the actions set forth in Subsections (1) through (6) of this section, the Clerk shall keep the record of the actions taken and decisions made in the permanent files of the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-8, 7/20/95

**§6-109. Disputed claims; procedure.** — Each judge shall endeavor to hear and adjudicate as many claims in his or her designated land registration area as possible. The judge shall endeavor to avoid becoming involved in such lengthy consideration of disputed claims as will seriously interfere with the pace of adjudication of claims generally within that land registration area. Each judge shall closely note the following:

(1) If a judge deems that consideration of a disputed claim will seriously interfere with the timely accomplishment of the purpose of this chapter, the judge may refer the claim to the Principal Judge of the Court of Land Tenure without the judge making a decision thereon.

(2) Similarly, if the Principal Judge deems that the designated judge is spending an unnecessary amount of time on a particular disputed claim, the Principal Judge may withdraw the claim from consideration by that judge.

(3) In either of the situations set forth in Subsection (1) or Subsection (2) of this section, the designated judge shall submit to the Principal Judge the full record of the case and claims pertaining

thereto, including the substance of all testimony, if any, taken by the judge. Upon receipt thereof, the Principal Judge may either:

- (a) Designate another judge to hear the parties and witnesses and make a determination on the claim on the evidence presented both before the first judge at the venue hearing and the second judge; or
- (b) Refer the claim to the Pohnpei Supreme Court as provided in §6-106.

Source: S.L. No. 3L-99-95 §17-9, 7/20/95

**§6-110. Notice of hearing.** —

(1) Before a judge commences a venue hearing with respect to a claim, notice thereof containing a description of the claim and the date, time, and place of the hearing shall be given at least 30 days in advance of the hearing as follows:

- (a) By posting such notice on the land in Pohnpeian and English; PROVIDED that the notice shall also be posted in the principal language of that respective local jurisdiction;
- (b) By posting such notice in the language specified above at the local government office, at no less than three conspicuous places on the land to be under adjudication at the venue hearing, and in at least two other areas of public access as may be determined by the judge;
- (c) By serving such notice upon all parties known to be of interest and as shown on the records of the preliminary inquiries;
- (d) By serving such notice upon others, if any, suspected to be possible parties or to have knowledge of the ownership of the land or the rights or interests of the claimants therein, even if the names do not appear on the record of the preliminary inquiries;
- (e) By serving such notice on the Soumas en Kousapw or his equivalent in local custom, on all adjacent land owners of record whose property borders on the land in question, and on the Chairman of the Pohnpei Public Lands Trust Board of Trustees in any matter wherein a public interest is held or suspected to be held in the land, whether or not that interest is involved in the particular determination; and
- (f) By broadcasting such notice on the publicly owned state radio station at a regular hour scheduled by the station manager for such notices at least once a day for not less than 30 days before the commencement of the venue hearing.

(2) Such notice shall be posted and served by a judge of the Court of Land Tenure or any employee of the court without charge, who shall certify in writing to the Principal Judge that notice has been posted and served. Service shall be as required for service in a civil summons under state law and the rules of the Pohnpei Supreme Court. During the period between the giving of notice under this chapter, and the hearing, any person or group of persons claiming an interest in the land adverse to the claim as stated in the notice may file a claim respecting that interest with the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-10, 7/20/95

**§6-111. Conduct of hearing.** — In conducting hearings, the court shall be guided by the rules of the Pohnpei Supreme Court. Each judge of the Court of Land Tenure is authorized to consider any evidence that will be helpful in reaching a just decision. The court, however, shall not endeavor to redetermine any matter already decided upon between the same parties or those through whom the present parties claim by a court judgment or by a clear Land Title officer's determination of ownership. The court shall accept such prior determinations as binding on such parties without further evidence than in the judgment or determination of ownership. However, by motion and with good cause, the court is authorized to vacate and set aside its own prior determination or to correct palpable mistakes under the court's prior action; PROVIDED that such action is consistent with state law and the rules of the court. All hearings of the court shall be public and every person claiming an interest in any land under consideration shall be given all reasonable opportunity, by actual or constructive notice, to be heard. Hearings must be held within the area of a designated land registration site where

the land involved is situated and, when practicable, shall be held in or near the particular parcel of land in question. All parties, including any representative appointed under this chapter, or by a court, or other proper authority, or a minor, incompetent or other person may be represented and assisted by counsel.

Source: S.L. No. 3L-99-95 §17-11, 7/20/95

**§6-112. Hearing involving a minor or incompetent; representative to be appointed.** — If a judge of the Court of Land Tenure finds that a party in interest is a minor or incompetent, the court shall appoint a person who is of age and sound mind to act as guardian and to represent such minor or incompetent unless he or she is already represented by a person appointed by a court or other proper authority. A guardian appointed by the court shall have full authority and power to act for the minor or incompetent in all matters in connection with his or her interest in the land; PROVIDED that a guardian may not encumber or in any way alienate any land under his or her guardianship except by an order of a court of competent jurisdiction.

Source: S.L. No. 3L-99-95 §17-12, 7/20/95

**§6-113. Notice of determination of ownership.** — Upon finalization of a decision rendered by the Court of Land Tenure, the court shall issue a ruling with respect thereto in writing and shall promptly give notice thereof in the same manner provided for the giving of notice for the conduct of hearings as prescribed by §6-110.

Source: S.L. No. 3L-99-95 §17-13, 7/20/95

**§6-114. Appeal from a determination of the Court of Land Tenure.** — Notwithstanding 57 PC 6-102(1), determination of ownership by the Court of Land Tenure shall be subject to appeal by any party aggrieved thereby to the Appellate Division of the Pohnpei Supreme Court within 90 days from the date of notice of determination. Such appeal shall be treated and effected in the same manner as an appeal from the Trial Division of the Supreme Court in a civil action, shall be subject to the same fees, and the powers of the Supreme Court with respect thereto shall be the same. Decisions of the Appellate Division of the Supreme Court shall be final.

Source: S.L. No. 3L-99-95 §17-14, 7/20/95

**§6-115. Issuance of certificate of title.** —

(1) After the time for appeal from a determination of ownership by the Court of Land Tenure has expired without any notice of appeal having been filed, or after an appeal duly taken has been determined, the Court of Land Tenure shall issue a certificate of title setting forth the names of all persons or groups of persons holding interest in the land pursuant to the determination, either as originally made or as modified by the Pohnpei Supreme Court, as the case may be. Such certificate of title shall be conclusive and binding upon all persons who have had notice of the proceedings and all those claiming under them and shall be prima facie evidence of the ownership as therein stated against the world, except that such ownership shall be subject to the following which need not be stated in the certificate:

- (a) Any rights-of-way there may be over the land in question;
- (b) Any lease or use rights for a term not exceeding one year; and
- (c) Any customary use rights of relations in existence prior to the issuance of the certificate.

(2) Any easement or other rights appurtenant to the land in question which are over unregistered land shall remain so appurtenant even if not mentioned in the certificate and shall pass with the land until cut off or extinguished in some lawful manner independent of the determination covered by the certificate.

Source: S.L. No. 3L-99-95 §17-15, 7/20/95

**§6-116. Register of Titles and Interests in Land; custody of Register; copies of certificates.** — The original certificate of title shall be kept in a permanent register for the state that shall be known and cited as the “Register of Titles and Interests in Land.” This Register shall remain in the custody of the Court of Land Tenure and under the supervision of the Principal Judge thereof. Duplicate certificates of title shall be issued by the Court of Land Tenure. One duplicate copy, marked “Owner’s duplicate certificate,” shall be delivered by the court to the owner or authorized representative thereof, and a second duplicate copy shall be filed by the court with the Clerk of the Pohnpei Supreme Court.

Source: S.L. No. 3L-99-95 §17-16, 7/20/95

**§6-117. Transfers and encumbrances of interests in registered lands.** — All transfers and encumbrances other than those exempted under Chapter 1 through Chapter 9 of this title, of any interest in land covered by the certificate of title shall be noted thereon under the direction of the Principal Judge of the Court of Land Tenure and shall be included in the Register of Titles and Interests in Land and in the required filing with the Clerk of the Pohnpei Supreme Court as prescribed in §6-116. It shall be the duty of the owner in requesting any transfer or upon notice that an involuntary transfer has been effected to submit his or her owner’s duplicate certificate for proper endorsement or cancellation. If the owner’s duplicate certificate is lost or destroyed, the owner may by petition under oath request the Court of Land Tenure to issue a new duplicate certificate, and the court, after such notice as it may order and hearing if necessary, may direct the issuance of a new duplicate which shall contain a memorandum of the fact that it is issued in place of the lost certificate. Before accepting and noting on the certificate of title any transfer of any interest therein, the Principal Judge of the Court of Land Tenure shall be responsible for seeing that the document of transfer is properly executed and properly describes the land and interests affected. If the certificate holder’s entire interest is transferred, the holder’s certificate shall be canceled and a new certificate of title issued to the transferee. If only a part of the land is transferred, the certificate holder may be required at his or her own expense to have the area to be transferred surveyed and a map thereof submitted showing to the Court of Land Tenure the area so transferred. Thereafter, a new certificate of title shall be issued for each part of the land covered by the former certificate with duplicates delivered and filed with the parties described in §6-116.

Source: S.L. No. 3L-99-95 §17-17, 7/20/95

**§6-118. Hearing and determinations required by Title 42 Chapter 3.** — The Court of Land Tenure herein created shall accede to all responsibilities and duties of the Land Commission and Land Registration Teams pursuant to Chapter 1 through Chapter 9 of this title and to Japanese and Trust Territory Government Leasehold Conveyance, Title 42 Chapter 3, as amended, and shall hear and adjudicate any and all claims of interests, rights or title to public land as provided in said statute. The court’s determination in such cases may be appealed to the Pohnpei Supreme Court in the manner prescribed by §6-114.

Source: S.L. No. 3L-99-95 §17-18, 7/20/95

**§6-119. Hearing and determination of heirship.** — The Court of Land Tenure, after due public notice, may hear and determine any claim of heirship to a deceased person’s title or interest in lands pending before the court. Notices, the conduct of hearings, and appeals therefrom shall be as prescribed generally by Chapter 1 through Chapter 9 of this title for determinations by the court.

Source: S.L. No. 3L-99-95 §17-19, 7/20/95

**§6-120. Hearing and determination of interests in public land prior to lease.** — The Court of Land Tenure, after due public notice, shall hear and adjudicate any and all claims of interests, rights or title to public land prior to the issuance of any lease or use agreement pursuant to 42 PC 2-101; PROVIDED that the hearing shall also establish that the proposed lease or use agreement meets all

legal requirements for lease or use of public lands. Notices, the conduct of hearings, and appeals therefrom shall be as prescribed generally by Chapter 1 through Chapter 9 of this title for determinations by the court.

Source: S.L. No. 6L-102-07 §1, 7/31/07

## CHAPTER 7 JUDICIAL ETHICS AND RULES OF CONDUCT

### Section

7-101 Judicial ethics

7-104 Resignation from bench when candidate for  
elective office

7-102 Practice of law prohibited

7-103 Disqualification

**§7-101. Judicial ethics.** — The justices and judges of the courts of this state, whether temporary or permanent, and all law clerks providing services thereto, whether formally or informally, shall adhere to the standards of the Code of Judicial Conduct of the American Bar Association, except as otherwise provided by law. The Chief Justice may, by rule, prescribe stricter or additional standards.

Source: S.L. No. 3L-99-95 §2-1, 7/20/95

**§7-102. Practice of law prohibited.** — No person who practices law in the Federated States of Micronesia or any political subdivision thereof may at the same time be a justice, judge, officer or employee of the Pohnpei Judiciary.

Source: S.L. No. 3L-99-95 §2-2, 7/20/95

**§7-103. Disqualification.** —

(1) A justice, judge or law clerk shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(2) A justice, judge or law clerk shall also disqualify himself in the following circumstances:

(a) Where he has a personal bias or prejudice concerning a party or his counsel, or personal knowledge of disputed evidentiary facts concerning the proceedings;

(b) Where in private practice he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the justice, judge, law clerk or such lawyer has been a material witness concerning it. The term “private practice” shall include non-government services as a licensed attorney or an attorney granted temporary rights to practice law, or non-government services as a trial assistant, trial counselor or other type of paralegal practitioner. Private practice shall also include service for public interest, legal service, and public defender not-for-profit organizations;

(c) Where he has served in a governmental capacity as an attorney or paralegal officer or employee and in such capacity has participated as counsel, advisor or material witness concerning the merits of the particular case in controversy; and

(d) Where he or his spouse, or person within a close relationship to either of them, or a spouse of such person was or is:

(i) A party to the proceeding or an officer, director or trustee of a party;

(ii) Acting as a lawyer in the proceeding;

(iii) Known by the justice, judge or law clerk to have an interest that could be substantially affected by the outcome of the proceeding; and

(iv) To the knowledge of the justice, judge or law clerk, likely to be a material witness in the proceeding.

(3) Upon taking office and by January 31 every year thereafter, each justice, judge, law clerk, and assessor shall list as a record the personal and fiduciary financial interests of himself and his spouse and minor children residing in his household. Said list shall be filed with the Clerk of the Pohnpei Supreme Court who shall promptly provide duplicate copies thereof to the Chief Justice, the Public

Auditor, and any state commission on ethics charged with overseeing the ethical conduct of officers of the judiciary branch. The Clerk of the Supreme Court shall annually, within 15 days following the due date for the filing of lists hereunder, compose a consolidated file of the lists required to be filed under this section which shall be available for public inspection. The Clerk shall promptly notify the Chief Justice of any judicial officer who does not make a timely filing under the requirements of this section.

(4) For purposes of this section, unless the context clearly requires otherwise, the following words shall have the following meanings:

(a) “Proceeding” means all formal and informal stages of litigation, including but not limited to, pretrial, trial, and appellate review;

(b) “Fiduciary” means all forms of fiduciary relationships, including but not limited to, such relationships as executor, administrator, trustee, and guardian; and

(c) “Financial interest” means ownership of a legal or equitable interest, however small, in property, including real property, or a relationship as director, advisor or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the justice, judge or law clerk participates in the management of the fund or if the proceedings could substantially affect the value of the fund;

(ii) An office or membership in an educational, religious, charitable or civic organization is a “financial interest” in securities held by the organization only if the outcome of the proceeding could substantially affect the value of the securities;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a member of a cooperative association, of a depositor in a mutual savings association or credit union, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and

(iv) Ownership of government securities is a “financial interest” in the holder only if the outcome of the proceeding could substantially affect the value of the securities.

(5) No justice or judge shall accept from the parties to the proceeding a waiver of any ground for disqualification of the justice, judge or a law clerk thereof as enumerated in Subsection (2) of this section. Where the ground for disqualification arises only under Subsection (1) of this section, waiver may be accepted; PROVIDED that it is preceded by full disclosure on the record of the basis for the disqualification.

(6) A party may move to disqualify a justice, judge or law clerk for one or more of the reasons stated in Subsection (1) or (2) of this section. Said motion shall be accompanied by an affidavit stating the reasons for the belief that the grounds for disqualification exist, and shall be filed before the trial or hearing unless good cause is shown for filing at a later time. Upon receipt of such motion, the justice or judge shall rule on it before proceeding further in the matter, stating his reasons for granting or denying it on the record.

Source: S.L. No. 3L-99-95 §2-3, 7/20/95

**§7-104. Resignation from bench when candidate for elective office.** — Every justice and judge of the courts of this state, whether temporary or permanent, shall immediately resign his office upon filing of his nominating petition with the Election Commissioner to be a candidate for an elective position at the national, state or local government level; PROVIDED that a justice need not resign from his judicial office in order to be a candidate for election to or serve as a delegate in a constitutional convention.

Source: S.L. No. 3L-99-95 §2-4, 7/20/95

Note: §2-4 was inserted by S.L. No. 4L-106-99 §1, 5/25/99.

## CHAPTER 8 [RESERVED]

## CHAPTER 9 TRANSITION

### Section

9-101 Administration

9-103 Court rules

9-102 Pending actions

9-104 Court of Land Tenure

**§9-101. Administration.** — The Chief Justice of the Pohnpei Supreme Court and the presiding judges of the other courts of this state shall take such actions as may be necessary to provide for the orderly transition of the state judiciary under Chapter 1 through Chapter 9 of this title. Except as otherwise provided by Chapter 1 through Chapter 9 of this title, justices, judges, and personnel of the state judiciary and appropriations to the state judiciary shall be continued for the state judiciary as organized under Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-1, 7/20/95

**§9-102. Pending actions.** — Actions pending before the courts of this state, and appeals therefrom, shall be continued under the courts as organized by Chapter 1 through Chapter 9 of this title. The Chief Justice of the Pohnpei Supreme Court and the presiding judges of the other courts of this state shall provide for the orderly transition of such actions under Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-2, 7/20/95

**§9-103. Court rules.** — Rules of the Pohnpei Supreme Court and the other courts of this state issued prior to the effective date of Chapter 1 through Chapter 9 of this title [*July 20, 1995*] and not inconsistent with Chapter 1 through Chapter 9 of this title shall continue in full force and effect until superseded by rules issued pursuant to Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-3, 7/20/95

**§9-104. Court of Land Tenure.** —

(1) Members of the Land Commission created under the authority of 67 TTC (1980) and who are otherwise qualified under the terms of Chapter 1 through Chapter 9 of this title shall serve as judges of the Court of Land Tenure for a period of one year after the effective date of Chapter 1 through Chapter 9 of this title [*effective date is July 20, 1995*], and thereafter until their successors are confirmed. The Senior Land Commissioner, if otherwise qualified under Chapter 1 through Chapter 9 of this title, shall serve as the first Principal Judge of the Court of Land Tenure for the remainder of his or her transition term as prescribed in this subsection.

(2) Members of the Land Registration Teams of the Land Commission shall serve as assessors to the Court of Land Tenure and shall perform such other functions for the court as shall be decided by the Principal Judge thereof for a period of at least one year unless removed for cause; PROVIDED that such assessors shall continue to receive salaries for the first year under Chapter 1 through Chapter 9 of this title at levels no less than they received immediately preceding the effective date of Chapter 1 through Chapter 9 of this title [*July 20, 1995*].

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

(4) Land determinations and registrations heretofore issued by the Land Commission shall be equivalent to the title determinations and registrations of the Court of Land Tenure created by Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-4, 7/20/95

Note: S.L. No. 3L-99-95 §20-5 relating to traffic and misdemeanor offenses and §21-1 severability provision have been omitted.

Extended legislative history: S.L. No. 2L-160-82, 12/17/82, established the state judiciary; S.L. No. 2L-238-83 §1, 1/20/84, amended S.L. No. 2L-160-82 §2(2), 12/17/82; S.L. No. 2L-238-83 §2, 1/20/84, repealed Title IV of S.L. No. 2L-160-82, 12/17/82, and added new Titles IV and V; S.L. No. 3L-6-84 §1, 2/13/84, amended S.L. No. 2L-160-82 §20, 12/17/82; S.L. No. 3L-6-84 §2, 2/13/84, repealed S.L. No. 2L-160-82 §50, 12/17/82, and added a new §50; S.L. No. 3L-30-84 §7, 10/1/84, superseded S.L. No. 2L-160-82 §61, 12/17/82; S.L. No. 1L-4-85 §1, 12/31/84, amended S.L. No. 2L-160-82 §60, 12/17/82; S.L. No. 1L-4-85 §2, 12/31/84, amended S.L. No. 2L-160-82 §69, 12/17/82; S.L. No. 1L-19-85 §4, 4/1/85, amended S.L. No. 2L-160-82 §69, 12/17/82; S.L. No. 1L-19-85 §4, 4/1/85, amended S.L. No. 2L-160-82 §70, 12/7/82, as established by S.L. No. 2L-238-83 §2, 1/20/84; S.L. No. 3L-99-95 §19-1, 7/20/95, repealed S.L. No. 2L-160-82, 12/17/82, as amended in its entirety; S.L. No. 3L-99-95 §19-2, 7/20/95, superseded Titles 5, 6, 8, and 9 of the Trust Territory Code, and 67 TTC §§101 – 120 (1980).

## CHAPTER 10 JUDICIARY FINANCES

### Section

10-101 Chief Justice's contingency fund: authorization; administration

**§10-101. Chief Justice's contingency fund: authorization; administration. —**

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums as may be appropriated annually in the Comprehensive Budget Act for the purpose of financing a contingency fund for the Chief Justice of the Pohnpei Supreme Court, to cover or finance expenses for the judiciary branch of an emergency or unforeseen nature arising within the approved budget line items in the respective title of the annual Comprehensive Budget Act for which the appropriation is made.

(2) All sums herein authorized for appropriation shall be expended and administered under the written direction of the Chief Justice of the Supreme Court for the purposes stated in this section. The Chief Justice shall submit an annual written report to the Legislature concerning all expenditures from this fund. The report shall be submitted on or before October 15 each year. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-24-88 §§1 & 2, 6/21/88; S.L. No. 2L-166-90 §1, 10/11/90

JUDICIARY

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