



Notice of
Public Meeting

to be held

April 2, 2015 at 12:15 p.m.

OBC Conference Room - 2nd Floor, Norbert Hill Center



***Topic: Leasing Law Adoption &
 Real Property Law Amendments***

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal that would adopt a Leasing Law and remove the leasing provisions from the current Real Property Law. This proposal would:

- ◆ Establish a process for approving leases on Tribal trust and fee land that complies with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) which would result in the Tribe no longer needing approval from the Secretary of Interior for leases of Tribal trust land. This process includes:
 - ◇ The terms and conditions that must be contained within a lease, including separate requirements for residential, agricultural and business leases.
 - ◇ How lease amendments and assignments, subleases, and encumbrances are approved.
 - ◇ A requirement that environmental and cultural reviews be completed before a lease or lease document is approved and what those reviews entail.
- ◆ Land Management is responsible for developing, with Land Commission approval, procedures and processes for offering and awarding leases and lease documents; managing leases; recording leases and lease documents with the appropriate entities; and enforcing leases.
- ◆ The Real Property Law amendments remove a provision that governs leasing of Tribal land and replaces it with a provision that defers to the Leasing Law for the leasing of Tribal land.

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until April 9, 2015

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office (LRO), which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**
PO Box 365
Oneida, WI 54155

Phone: **(920) 869-4376 or (800) 236-2214**
 E-Mail: **LOC@oneidanation.org**
 Fax: **(920) 869-4040**

CHAPTER 67
REAL PROPERTY LAW
Tokáske Kayanláhsla Tsi? Ni?yohuntsya'té
 The real/certain laws of the territory of the nation

- | | |
|--|---|
| 67.1. Purpose and Policy
67.2. Adoption, Amendment, Conflicts
67.3. Rules Of Statutory Construction
67.4. Definitions
67.5. Interests In Real Estate: Individual Or Tribal
67.6. Holding Of Ownership
67.7. Legal Descriptions
67.8. Title Transfer | 67.9. Disposition Of Estates Of Deceased Tribal Members
67.10. Real Estate Trust Accounts
67.11. Leasing of Real Property
67.12. Records
67.13. Real Estate Licensing
67.14. Real Estate Financing
67.15. Tribal Real Estate Taxes
67.16. Organization |
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<i>Analysis by the Legislative Reference Office</i>					
Title	Real Property Law (the Law)				
Requester	LRO	Drafter	Lynn Franzmeier	Analyst	Tani Thurner
Reason for Request	The proposed amendments delete provisions related to leasing Tribal land; as that topic would be addressed through a new Leasing law.				
Purpose	To reconcile this Law with a new law being proposed for adoption.				
Authorized/ Affected Entities	<i>See the proposed Leasing Law.</i>				
Due Process					
Related Legislation	A proposed Leasing Law is being considered in conjunction with these amendments.				
Policy Mechanism	<i>See the proposed Leasing Law.</i>				
Enforcement					

Overview

This request for amendments to the Real Property Law is being submitted in conjunction with a proposal for a new Tribal Leasing law (Leasing Law), which would govern the leasing of all Tribal trust and fee land.

Under the proposed amendments to this Law; section 67.11 (which governs the leasing of real property) would be mostly deleted and replaced with a single sentence, which states that "All leasing of tribal land shall be processed in accordance with the Tribe's Leasing law." [67.11-1]

The few requirements that are currently set out in this section of the Real Property Law would instead be set out in the proposed Leasing Law, albeit in greater detail - delegating the authority to process all leasing of Tribal land to the Division of Land Management (DLM); identifying three types of leases (commercial, agricultural, and residential leases); and identifying certain provisions that are required to be included in leases.

However, there are some provisions relating to leases which would still remain in the Real Property Law and that are not specifically set out in the new Leasing Law. They include:

- 1) Requiring that, for leases of tribal trust land, preference be given to Oneida Tribal citizens and programs.
- 2) Addressing what would happen if a lessee defaults on an approved encumbrance (i.e. a leasehold interest) on Tribal land – this Law grants DLM the right to correct the default and then to pursue remedies against the defaulting party under the Oneida Administrative Procedures Act. The Leasing Law does not address defaults in detail; but does grant DLM "all powers necessary and proper to enforce this Law and the lease terms"; and

6 adds that if DLM determines a lessee is in default; then DLM must take action to have
7 the lessee cure the default or, if the default is not cured, DLM must cancel the lease.
8

9 **Remaining References to Leases**

10 There are various provisions remaining in this Law which refer to leasing; but these are
11 broader references where leasing is referenced alongside other real property transactions; and
12 they do not affect the proposed Leasing law:

- 13 • 67.1 and 67.13 both include the leasing of Tribal land in the list of activities for which a
14 Tribal Property License is required. The Leasing Law does not mention any requirement
15 for a Tribal Property License in order to execute leases.
- 16 • 67.12-2 requires DLM to develop a system for timely recording of Reservation title
17 documents, which includes leases.
- 18 • 67.7-6 states that an address is considered an adequate legal description of property listed
19 for sale or lease to Tribal members.
20

21 **Other**

22 Minor revisions are made to section 67.2 to ensure that section is in compliance with the
23 Legislative Procedures Act; and an incorrect citation in 67.1-2 is revised to reflect the correct
24 citation. These revisions do not affect the content of the Law.

25 This Law has not been updated since 2010 and these proposed amendments focus mainly
26 on complementing the proposed Leasing Law. The LOC may want to consider reviewing this
27 Law more closely in the future, including the definitions – for example, 67.5-4 defines “Life
28 Lease” but then that term is not used again in the Law, so defining it is probably not necessary.

29 A public hearing has not been held.
30

31 **CHAPTER 67**

32 **REAL PROPERTY LAW**

33 **Tok[^]ske Kayanl[^]hsla Tsi> Ni>yohuntsya-#**

34 The real/certain laws of the territory of the nation
35
36

37 **67.1. Purpose and Policy**

38 *67.1-1. Purpose*

39 (a) The purpose of this Law is to provide regulations and procedures for the transfer,
40 control and management of the territory within the exterior boundaries of the Reservation
41 of The Oneida Tribe of Indians of Wisconsin and such other lands as may be added
42 within or without said boundary line; and to integrate these regulations and procedures
43 with the present real property laws and practices of other federal and state sovereigns
44 which may hold applicable jurisdiction within the reservation.

45 (b) In addition, this Law establishes a training and licensing mechanism for any person
46 who lists, sells, buys, exchanges, leases, rents, or deals in any way with real property
47 coming under the scope of this Law.

48 (c) Nothing in this Law shall be construed as a waiver of the sovereign immunity of the
49 Oneida Tribe of Indians of Wisconsin.

50 *67.1-2. Policy*

51 (a) The provisions of this Law shall extend to all tribal lands and waters held in trust, all
52 tribal lands and waters held in fee status, all fee status lands under the control of
53 individual Oneida members, all heirship lands and waters and all individual and tribal

54 trust lands and waters, all within the exterior boundaries of the Oneida Tribe of Indians of
 55 Wisconsin Reservation; and to such other lands as may be hereafter added, both within
 56 and without the exterior boundaries of the Oneida Reservation, under any law of the
 57 United States, except as otherwise provided by law.

58 (b) The licensing provisions of this Law shall extend to any person who lists, sells, buys,
 59 exchanges, leases, rents or deals in any way with real property coming under 67.1-
 60 ~~3a,2(a)~~, of this Law, including employees of the tribe.

61 (c) Any transaction which would add property to the tribal land base shall be
 62 administered through the Division of Land Management under the provisions of this
 63 Law.

64 (d) The sale of tribal land is specifically prohibited under this Law, except for the
 65 purposes of consolidation or partition of property.

66 (e) It is not intended by this Law to repeal, abrogate, annul, impair or interfere with any
 67 rules, regulations, or permits previously adopted or issued pursuant to tribal or federal
 68 laws. Further, it is intended that Wisconsin law be considered as an integral part of real
 69 property transfer occurring within or without the Reservation, insofar as the transaction is
 70 between a non-Oneida person(s) who hold fee simple title to land within the Reservation
 71 and the Tribe or a tribal member.

72 (f) Expenses and Fees. The Land Commission shall establish an equitable fee schedule
 73 for each activity or service provided in this Law. All fees collected will be used for the
 74 maintenance of services and management of lands which come under the authority of this
 75 Law.¹

76 **67.2. Adoption, Amendment, Conflicts**

77
 78 67.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-5-29-96-A
 79 and amended by resolutions BC-3-01-06-D and BC-04-28-10-E.

80 67.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to
 81 the procedures set out in the Oneida Administrative Legislative Procedures Act ~~by the Oneida~~
 82 ~~Business Committee or the Oneida General Tribal Council.~~

83 67.2-3. Should a provision of this Law or the application thereof to any person or circumstances
 84 be held as invalid, such invalidity shall not affect other provisions of this Law which are
 85 considered to have legal force without the invalid portions.

86 67.2-4. In the event of a conflict between a provision of this law and a provision of another law,
 87 the provisions of this law shall control. Provided that, nothing in this law is intended to repeal or
 88 modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

89 76.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of
 90 Wisconsin.

91
¹ Other laws that are relevant to the purpose and implementation of this Law include:

Oneida Shoreland Protection Ordinance

Oneida Zoning Ordinance

Oneida Administrative Procedures Act

25 CFR 150-179 (Land and Water)

25 CFR 15 (Probate)

25 CFR 261-265 (Heritage Preservation)

Wisconsin Statutes and Administrative Code relating to the practice of Real Estate

State and Federal Laws specifically cited in Ordinance

92 **67.3. Rules Of Statutory Construction**

93 67.3-1. General words are understood to be restricted in their meaning by more specific words
94 which came before.

95 67.3-2. If the meaning of a general word cannot be reconciled with the meaning of a specific
96 word in this Law the specific word will control.

97 67.3-3. When a series of words of general meaning is followed by words of limitation, the
98 limitation will apply only to the last word in the list, unless otherwise stated.

99 67.3-4. The word “shall” is mandatory and the word “may” is permissive.

100 67.3-5. The Law should be read as a whole. The words are not meant to be isolated, and their
101 meaning must be found in reference to the statement as a whole.

102 67.3-6. If a later enacted Law or statute cannot be read in agreement with an earlier enactment,
103 the later enactment will control when interpreting the meaning from context.

104 67.3-7. “Land” is used to mean the earth’s surface extending downward to the center of the earth
105 and upward to infinity, including things permanently attached by nature, such as tree and water.

106 67.3-8. “Real Estate” is used to mean the earth’s surface extending downward to the center of
107 the earth and upward to infinity, including all things permanently attached to it, whether natural
108 or permanent man-made additions.

109 67.3-9. “Real Property” or “Property” is used to mean the earth’s surface extending downward
110 to the center of the earth and upward to infinity, including all things permanently attached to it,
111 whether natural or permanent man-made additions, plus the bundle of legal rights which include
112 control, exclusion, possession, disposition and enjoyment.

113 67.3-10. The word “Person” when used in this Law includes individuals, corporations or
114 partnerships.

115

116 **67.4. Definitions**

117 67.4-1. Accounting. The responsibility of a broker to report the status of all funds received from
118 or on behalf of the principal.

119 67.4-2. Agency. Any tribal entity, board, commission, committee, department or officer
120 authorized by the Oneida Tribe to propose Law/rules for adoption by the Oneida Business
121 Committee. The term “Agency” shall not include the Oneida Business Committee or a tribal
122 appeals body.

123 67.4-3. Appraisal. A process of estimating a property’s value.

124 67.4-4. Attorney. A person trained and licensed to represent another person in court, to prepare
125 documents defining or transferring rights in property and to give advice or counsel on matters of
126 law.

127 67.4-5. Broker. A person who acts as an agent and negotiates the sale, purchase or rental of
128 property on behalf of others for a fee, and must be licensed under this Law under certain
129 circumstances.

130 67.4-6. Bundle of Rights. The “rights” of ownership include the right of possession, the right to
131 control the property within the framework of the law, the right of enjoyment, the right of
132 exclusion and the right of disposition.

133 67.4-7. Buyer. The person who hires a broker to find a parcel of real estate that has certain
134 characteristics or is usable for specific purposes; or the person who buys a piece of real estate
135 from a seller broker or salesperson.

136 67.4-8. Care. The broker must exercise a reasonable degree of care and skill while transacting
137 the business of the principal.

138 67.4-9. Certified Survey Map. A map officially filed and approved by the County, Tribal or
139 municipal governments, which provides the legal description of any land in question.

140 67.4-10. Contested Cases. A proceeding before an Agency in which an opportunity for a
141 hearing before the Agency is required by law prior or subsequent to the determination of the
142 Agency of the legal rights, duties, or privileges of specific parties unless otherwise provided for
143 by tribal law. This includes the revocation, suspension or modification of a license or permit
144 when a grant of such application is contested by a person directly affected by said licensing or
145 permitting. See Oneida Administrative Procedures Act.

146 67.4-11. Counseling. Providing clients with competent independent advice based on sound
147 judgment, on such things as alternative courses of action regarding the purchase, use and
148 investment of property.

149 67.4-12. Development. The construction of improvements on land.

150 67.4-13. Disclosure. The broker's duty to keep the principal fully informed at all times of all
151 facts or information the broker obtains that could affect the transaction.

152 67.4-14. Dual Agency. When a broker receives compensation from both buyer and seller in a
153 transaction.

154 67.4-15. Education. The provision of information to both the real estate practitioner and the
155 consumer.

156 67.4-16. Fiduciary. One who is placed in a position of trust and confidence and normally is
157 responsible for the money and/or property of another. A broker and a salesperson are both
158 fiduciaries.

159 67.4-17. Financing. Financing is the business of providing funds by means of a mortgage loan.

160 67.4-18. Fixtures. Articles that were once personal property but has been so affixed to land or a
161 building that the law construes it to be part of the real estate.

162 67.4-19. Fraud. The intentional misrepresentation of a material fact in such a way as to harm or
163 take advantage of another person. In addition to false statements about a property, the concept of
164 fraud covers intentional concealment or nondisclosure of important facts.

165 67.4-20. Individual Fee Land. Land held in fee by an individual or group of individuals.

166 67.4-21. Individual Tribal Property. Real property owned by an Oneida Tribal member in fee or
167 held in trust for that member by the United State of America.

168 67.4-22. Individual Trust Land. Land held by the United States of America in trust for the
169 benefit of an individual Tribal member.

170 67.4-23. Intestate. One who dies without having made a will; or property not disposed of by
171 will.

172 67.4-24. Law of Agency. The body of law that governs the rights and duties of principal, agent
173 and third persons.

174 67.4-25. Mobile Home. A building which, when originally constructed, was prefabricated and
175 on wheels to allow movement from one location to another with minimal modifications
176 necessary to attach utilities. It is considered to be personal unless it is permanently affixed to the
177 land, at which point it is considered real property.

178 67.4-26. Personal property or Personalty. All property that does not fit the definition of real
179 property, and usually the characteristic of being "movable."

180 67.4-27. Plat Map. Map of a piece of property that may be a part of a larger parcel of real estate
181 or may be composed of several smaller ones which the surveyor resurveys. This new map is
182 called a Plat map, and it creates a new legal description which must be tied to the description on
183 a Certified Survey Map(s), to be considered acceptable for transfer of property.

184 67.4-28. Probate. An official authentication of a will, and/or official administration of an estate
185 of a deceased person.

186 67.4-29. Reservation. That area within the exterior boundaries as set out in the 1838 Treaty with
 187 the Oneida 7 Stat. 566, and that land purchased and held by the United States of America in trust
 188 for the Oneida Tribe of Indians of Wisconsin outside those exterior boundaries
 189 67.4-30. Salesperson. A person who receives a fee or commission to work on behalf of the
 190 broker, and must be licensed under this Law under certain circumstances.
 191 67.4-31. Subsurface Rights. The rights to natural resources lying below the earth's surface.
 192 67.4-32. Sun Rights. A solar energy owner's right to access to the sun.
 193 67.4-33. Surface Rights. The rights to use the surface of the earth within boundaries defined in
 194 a transfer of real property.
 195 67.4-34. Tribal Fee Land. Land held in fee by the Oneida Tribe.
 196 67.4-35. Tribal Property. Real property owned by the Oneida Tribe in fee or held for the Tribe
 197 by United States of America.
 198 67.4-36. Tribal Trust Land. Land held by the United States of America in trust for the benefit of
 199 the Oneida Tribe.
 200 67.4-37. Tribe. Oneida Tribe of Indians of Wisconsin. Also known as the Sovereign Oneida
 201 Nation in Wisconsin, and On[^]yote[>] a-ká.
 202

203 **67.5. Interests In Real Estate: Individual Or Tribal**

204 67.5-1. Fee Simple Absolute. The greatest interest of ownership or distribution in a parcel of
 205 land that it is possible to own i.e. no conditions. Sometimes simply designated as fee. Tribal
 206 individuals, non-tribal individuals and tribal government may hold fee interest in land within the
 207 Oneida Reservation.
 208 67.5-2. Leasehold. The interest in fee or trust property that is qualified by some future
 209 determinant such as time, age, or an act/incident.
 210 67.5-3. Fee or Trust subject to a Condition. An interest which includes a proviso in the deed or
 211 will that upon the happening or failure to happen of a certain event, the title of the purchaser or
 212 devisee will be limited, enlarged, changed or terminated.
 213 67.5-4. Life Lease. A lease of the right of use and occupancy of Tribal Fee or Trust Lands for
 214 the life of an individual either Oneida tribal or non-tribal.
 215 67.5-5. Trust. Land held by the United States of America in trust for the Oneida Tribe of
 216 Indians of Wisconsin, or for a member of this tribe.
 217 67.5-6. Life Use, or Estate. A claim or interest in individual trust property by a non-tribal
 218 spouse, not amounting to ownership, and limited by a term of life of the person in whom the
 219 right is vested.
 220

221 **67.6. Holding Of Ownership**

222 67.6-1. Interests in land by more than one person may be held in the following ways:
 223 (a) Joint tenancy with right of survivorship: Each owner has an equal, undivided interest
 224 in the property. As an owner dies, their share is divided among the remaining owners, so
 225 the last living owner owns the entire property.
 226 (b) Tenancy in common. Each owner has a percentage interest in the property. As an
 227 owner dies, that owner's interest is divided among his or her devisees or heirs. Two or
 228 more individuals holding property are tenants in common unless:
 229 (1) a deed, transfer document or marital property agreement specifically states
 230 the property is held as joint tenants with rights of survivorship; or
 231 (2) a married couple holds the property without a marital property agreement that
 232 specifically states the property is held as tenants in common.
 233

234 **67.7. Legal Descriptions**

235 67.7-1. The legal description for any land transferred under this Law will be derived from a
236 Certified Survey Map (CSM) or Plat of Survey completed by a registered Land Surveyor
237 according to currently accepted minimum standards for property surveys. If the Plat of Survey
238 changes the legal description of the CSM for the same piece of property, the CSM legal
239 description will be used on transfer documents along with the Plat of Survey description
240 designated “**Also Known as ...**” Section, Township, Range and Fourth Principal Meridian must
241 be within all tribal legal descriptions.

242 67.7-2. Every land survey shall be made in accordance with the records of the County Register
243 of Deeds for fee land, and in accordance with the records of the Oneida Division of Land
244 Management for all trust lands. The surveyor shall acquire data necessary to retrace record title
245 boundaries such as deeds, maps, certificates of title, Title Status Reports from the Bureau of
246 Indian Affairs, Tribal Leases, Tribal Home Purchase Agreements, center line and other boundary
247 line locations.

248 67.7-3. Legal description defining land boundaries shall be complete providing unequivocal
249 identification of line or boundaries.

250 67.7-4. In addition to Survey Map requirements outlined in Wisconsin Administrative Code,
251 Chapter A-E7, all surveys prepared for the Oneida Tribe should indicate setbacks, building
252 locations and encroachments.

253 67.7-5. Legal descriptions will be used on transfer documents formalizing a purchase, real estate
254 sale, lease, foreclosure, probate transfer to beneficiaries or trust acquisition and tribal resolutions
255 indicating legislative approval.

256 67.7-6. When real estate is listed for sale or lease to tribal members, the address is considered an
257 adequate legal description of the property.

258

259 **67.8. Title Transfer**

260 67.8-1. General. It is presumed that the intentions of parties to any real property transfer are to
261 act in good faith. For this reason, this shall be liberally construed when faced with conflict or
262 ambiguity in order to effectuate the intentions of the parties.

263 67.8-2. The Division of Land Management shall use only those title companies duly registered
264 with the Department of Interior and approved by the Division of Land Management to update
265 abstracts or provide Title Insurance on real property scheduled for trust acquisition.

266 (a) Title Companies must follow general guidelines provided by federal government in
267 terms of form, content, period of search, destroyed or lost records and Abstracter’s
268 Certificate.

269 (b) When researching Land title within the reservation which is being considered for
270 trust acquisition, the Title Company will be requested to search the title back to the
271 original allottee, to assure that patents or Indian Deeds were legally issued.

272 (c) Any valid liens or encumbrances shown by the Commitment for Title Insurance must
273 be eliminated before the Title is transferred into Trust.

274 (d) After land is in trust, title search of County records is no longer acceptable. Title
275 Status Reports from Oneida Division of Land Management or the Bureau of Indian
276 Affairs shall be used to verify all valid encumbrances, if any, on the title. A valid
277 encumbrance is one that has been preapproved, in writing, by the Division of Land
278 Management.

279 67.8-3. The Warranty Deed is the formal document used by the Division of Land Management
280 to transfer title from one party to another. It shall not be considered valid unless it is in writing
281 and:

- 282 (a) Identifies the grantor and grantee;
 283 (b) Provides the legal description of the land;
 284 (c) Identifies the interest conveyed, as well as any conditions, reservations, exceptions,
 285 or rights of way attached to the interest.
 286 (d) Is signed by or on behalf of each of the grantors;
 287 (e) Is signed by or on behalf of each spouse, and
 288 (f) Is delivered.

289 67.8-4. A Warranty Deed prepared for Trust Acquisition shall, in addition to that listed in 8-3,
 290 include the following:

- 291 (a) The federal authority for Trust Acquisition;
 292 (b) Any exceptions or exclusions from State fees or other transfer requirements;
 293 (c) The approximate acreage of the real property being transferred to Trust; and
 294 (d) The authority and signature of the appropriate Department of Interior official who
 295 accepts the real property into Trust.

296 67.8-5. A Warranty Deed transferring fee simple title shall be recorded in the appropriate Register
 297 of Deeds office. Once the real property is in trust, the Title shall be recorded with the Oneida
 298 Division of Land Management and the Aberdeen Title Plant for the United States Department of
 299 the Interior.

300 67.8-6. An involuntary Transfer of title may occur in the following ways:

301 (a) Tribal Eminent Domain is the right of the Tribal Government to acquire private land
 302 for public uses without the consent of private owners. Public uses include, but are not
 303 limited to, environmental protection, streets, highways, sanitary sewers, public
 304 utility/sites, waste treatment facilities and public housing. Attempts must first be made to
 305 negotiate an agreeable taking by the Tribal Government; thence provide an offer to
 306 purchase based on a tribal appraisal of the property; and provide compensation for the
 307 taking. Provision for required hearing on the taking and appeals to the Oneida Appeals
 308 Commission can be found in the Oneida Administrative Procedures Act.

309 (b) Foreclosures may occur whenever a tribal member ceases payment on a mortgage for
 310 leasehold improvements, a tribal home purchase agreement, or home improvement loan.
 311 If the loan is through a public lending institution the Tribe may choose to pursue its option
 312 to purchase the loan and finalize the foreclosure through the Division of Land
 313 Management. A decision to foreclose shall be handled as a Contested Case according to
 314 the Oneida Nation Administrative Procedures Act, Section 10. Contested Cases and 11.
 315 Appellate Review. Also see 14-5 of this Law.

316 (c) The Indian Land Consolidation Act was passed by Congress and became effective
 317 January 12, 1983 (Pub.L. No. 97-459, 96 Stat. 2515, and amended on October 30, 1984 by
 318 Pub.L. No. 98-608, 98 Stat. 3171). Section 207 of said Act is incorporated into this Law,
 319 which provides that if it is determined that the decedent's ownership in a given parcel of
 320 land is 2 percent or less of the total acreage, and that interest is incapable of earning
 321 \$100.00 in any one of the five (5) years from the date of the decedent's death, thence that
 322 ownership interest shall escheat, or pass, to the Tribe having jurisdiction over said land,
 323 for just compensation, unless the heirs can prove by substantial evidence that the above
 324 determination was wrong. This determination will be made through Probate proceedings
 325 in 67.9 of this Law.

326 (d) Upon the Tribe receiving majority consent from heirs, the Land Commission may
 327 approve an Order Transferring Inherited Interests under the authority of Section 205 of the
 328 Indian Land Consolidation Act provided that none of the Indians owning an undivided
 329 interest is willing to purchase or match the tribes offer.

330 (e) An Involuntary Transfer of Title cannot occur without a hearing in front of the Land
331 Commission, or its designated subcommittee, under procedures of the Oneida Nation
332 Administrative Procedures Act, Section 9. Declaratory Ruling, or Section 10. Contested
333 Cases.

334 (f) Easements for Landlocked Properties. A procedure for handling a request for an
335 easement will be developed and approved by the Land Commission.

336 67.8-7. Records. All documents pertaining to trust property within the Oneida Reservation shall
337 be recorded in the United States of America Aberdeen Title Plant as well as the Division of Land
338 Management. See also Section 12.

339 67.8-8. All Individual and Tribal lands purchased in fee shall be transferred to Trust held by the
340 United States of America through procedures promulgated by the Division of Land Management,
341 and supported by waivers approved by the Secretary of Interior or designate.

342

343 **67.9. Disposition Of Estates Of Deceased Tribal Members**

344 67.9-1. The purpose of this section is to formalize laws to handle the disposition of deceased
345 tribal members' trust property, with or without a will. The intent of this section is to provide
346 procedures which make it possible for equitable and fair decisions to be made for the surviving
347 family, as well as promoting ongoing peace and harmony within the community.

348 (a) Tribal members holding fee land within the reservation may use the laws and
349 procedures of the State of Wisconsin or those of this Law.

350 (b) Tribal members holding trust land within the reservation shall use the laws and
351 procedures of this Section.

352 67.9-2. Non-members of The Oneida Tribe and non-citizens of the United States cannot acquire
353 Trust land through inheritance. Where interests are specifically devised to individuals ineligible
354 to inherit the following options are provided:

355 (a) Sale of interest to the Oneida Tribe or an eligible heir for its fair market value;

356 (b) Acquire a life estate in the property if an ineligible spouse and/or minor child.

357 67.9-3. Interests of Heirs who cannot be found will be sold to the Oneida Tribe at fair market
358 value, or to an eligible heir, and the money returned to the estate for distribution.

359 67.9-4. In the absence of any heir or devisee, interests will escheat to the Oneida Tribe of Indians
360 of Wisconsin.

361 67.9-5. Personal property which does not come under the guidelines of this Law, and may be
362 distributed at the traditional ten day meal by family members, include:

363 (a) Clothing, furnishings, jewelry, and personal effects of the deceased not valued at more
364 than \$100 per item.

365 (b) Ceremonial clothing or artifacts, including eagle feathers, beadwork, dance sticks,
366 flutes, drums, rattles, blankets, baskets, pottery, medicines, and animal skins.

367 67.9-6. The Land Commission, or its designated sub-committee, shall make a declaratory ruling
368 by authority of the Administrative Procedures Act, Section 9, in any case brought before them by
369 any person claiming to be an heir of the deceased and requesting any of the following
370 determinations:

371 (a) Heirs of Oneida members who die without a will (intestate) and possessed of fee or
372 trust property coming under the authority of the Oneida Tribe of Indians of Wisconsin;

373 (b) Approve or disapprove wills of deceased Oneida members disposing of trust property;

374 (c) Accept or reject full or partial renunciations of interest;

375 (d) Allow or disallow creditors' claims against estates of deceased Oneida members;

376 (e) Decree the distribution of all assets of a deceased Oneida member.

377 67.9-7. The Staff Attorney for the Division of Land Management will prepare a file for each
 378 probate hearing within 30 days of receipt of a Request for Probate Hearing from anyone claiming
 379 to be an heir of the deceased. Extensions to this 30 day requirement shall be requested from the
 380 Land Commission when proven necessary to complete the file. Relatives and agencies will be
 381 asked to cooperate in developing a complete probate file containing:

- 382 (a) Family history information,
- 383 (b) Death certificate,
- 384 (c) Personal and Real Property Inventory,
- 385 (d) BIA-IIM Account Report,
- 386 (e) Creditor Claims,
- 387 (f) Original will, if any,
- 388 (g) Names, addresses and phone numbers of all parties-in-interest.

389 67.9-8. Definitions As Used In This Section

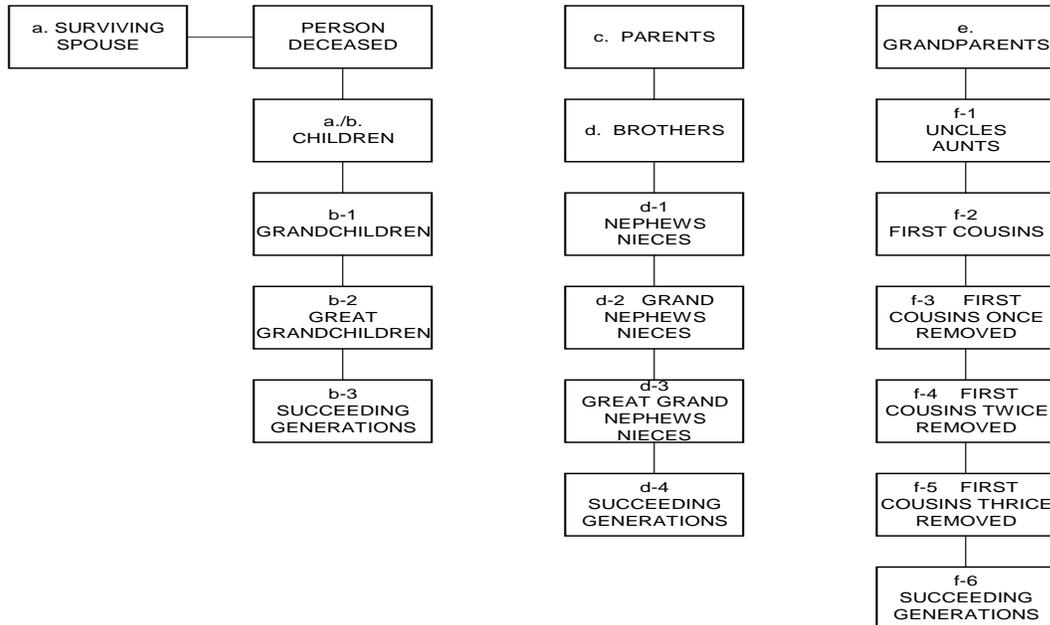
- 390 (a) Children And Issue: Includes adopted children and children of unwed parents where
 391 paternity has been acknowledged, or established by court decree. This does not include
 392 non-adopted step-children.
- 393 (b) Parties-in-interest: This includes:
 - 394 (1) Heirs of the decedent
 - 395 (2) A beneficiary named in any document offered for probate, such as the will of
 396 the decedent, land lease or sale agreement for real estate.
 - 397 (3) A person named as administrator or personal representative in any document
 398 offered for probate.
 - 399 (4) Additional persons as the Land Commission may by order include who may be
 400 affected by the actions of the Land Commission, or its designated sub-committee,
 401 whether by receipt of or denial of any property which is a part of the action.
- 402 (c) Heirs: Any person who is entitled under Tribal law to an interest in the property of a
 403 decedent.

404 67.9-9. *Parties-in-interest*. The net estate of a decedent, not disposed of by will, passes to his/her
 405 surviving heirs or Parties-in-interest as follows:

- 406 (a) To the spouse:
 - 407 (1) All Real Property.
 - 408 (2) All other than Real Property if there are no surviving children of the decedent.
 - 409 (3) 2 of other than Real Property of the decedent's estate if there are surviving
 410 children of the decedent, or children of any deceased child of the decedent
 411 (grandchildren) who take by right of representation.
- 412 (b) To Surviving Children and children of any deceased child of the decedent by rights of
 413 representation;
 - 414 (1) All of the estate if there is no surviving spouse, divided equally to all in the
 415 same degree of kinship to the decedent. Surviving children of a deceased child of
 416 the decedent will divide their parent's share.
- 417 (c) All of the estate to the parents, equally divided, if no surviving spouse, children or
 418 children taking by right of representation.
- 419 (d) All of the estate to the brothers and sisters and children of deceased brothers or sisters
 420 by representation, divided equally, If no surviving spouse, children, or parents.
- 421 (e) All of the estate to the grandparents of the deceased divided equally, if no surviving
 422 spouse, children parents or brothers and sisters.

423 (f) All of the estate divided equally to lineal descendants of the grandparents of the
 424 deceased in the same order as (b) thru (e) if no surviving spouse, children, parents
 425 brothers/sisters, or grandparents of the decedent.

426 (g) Diagram of Intestate Succession as outlined in (a) thru (f) in Figure 1.



427 (h) Any 2% interests, or less, in land, as defined in 8-6(c) of this Law.
 428 67.9-10. When the Probate File is complete, it will be placed on the agenda for review by the
 429 Land Commission, who will first review it for sufficiency. If the Land Commission determines
 430 the file is incomplete, it is sent back to the Staff Attorney with further instructions. If the probate
 431 file is determined to be complete, a hearing shall be scheduled at a time when most, if not all,
 432 parties can attend.

433 (a) *Notice:* All parties-in-interest will be sent a certified personal notice of the hearing to
 434 their current or last known address. The hearing notice will also be posted at NORBERT
 435 HILL CENTER, LITTLE BEAR DEVELOPMENT CENTER and other public places within the
 436 reservation, and published in at least two issues of the Kalihwisaks, the Milwaukee
 437 Sentinel/Journal, a Green Bay Paper and an Appleton paper. The notice will include time
 438 and place for hearing, agenda, approximate length of hearing and contact person. This
 439 notice will be provided at least 10 days before the hearing takes place.

440 (b) The hearing will generally adhere to the following format:

- 441 (1) Rules for an open, nonjudgmental discussion shall be presented and accepted.
- 442 (2) Probate file is reviewed and data added or corrected based on consensus of
 443 those present.
- 444 (3) Ample time is provided for full discussion of the process, presentation of
 445 additional data for the file, and defining of problems or disputes to be entered into
 446 the record.
- 447 (4) All problems or disputes shall be settled in this hearing, with all parties-in-
 448 interest present and assisting in this resolution. This includes recommendations for
 449 clear partition of any real property held in undivided interest, and full discussion of
 450 creditor claims. This hearing shall be continued to another date only if unpredicted
 451 circumstances or unavailable information impedes the progress of resolution.

452 (5) When all problems, disputes and legal issues of the case have been resolved to
453 the satisfaction of all parties-in-interest, the hearing body will issue its Final or
454 Declaratory Ruling to the Director of Land Management, who will notify the Land
455 Commission and all parties involved in the hearing. This Final Ruling takes effect
456 60 days after mailings.

457 67.9-11. A party to a probate hearing may seek a rehearing of any of the above determinations
458 listed in 9-3 upon provision of a written request to the Director of the Division of Land
459 Management within 60 days after the Declaratory Ruling is issued. It is the responsibility of the
460 aggrieved party to make certain that adequate documentation necessitating a rehearing is attached
461 to the request.

462 (a) This request must include affidavits, witness list, summary of testimony and other
463 support documents which would provide a justifiable reason why any new information
464 was not available at the original hearing.

465 (b) If basis for rehearing is alleged procedural irregularities, the request shall include
466 complete documentation of these irregularities.

467 (c) If basis for rehearing is the constitutionality of the Law or its procedures, a legal brief
468 shall be attached to the request which clearly establishes the legal rationale for this claim.

469 (d) If basis for rehearing is that the determination is clearly erroneous, arbitrary and/or
470 capricious, a clear statement or legal brief summarizing the party's rationale for believing
471 this to be true shall be attached to the request.

472 67.9-12. The Director of Land Management will place the petition for rehearing on the first
473 agenda of the Land Commission following the receipt of the written request.

474 (a) The Land Commission may deny a rehearing if there is insufficient grounds for the
475 petition, or if the petition is not filed in a timely fashion.

476 (b) The Land Commission may order a rehearing based on the merit of the petition. The
477 petition and supporting papers are then sent to all participants of the first hearing along
478 with the date for the rehearing.

479 (c) If a rehearing is ordered, the Land Commission will adhere to the same notice
480 requirements as in the first hearing. In addition, the hearing body should be composed of
481 the same individuals responsible for the first hearing. Based on the information presented
482 at the rehearing, the hearing body may adhere to the former Ruling, modify or vacate it, or
483 make such further determinations that are warranted.

484 67.9-13. Any Declaratory Ruling given under this Section may be appealed to the Oneida Nation
485 Appeals Commission within 30 days from the date of the Ruling. The Ruling is sent to the
486 Parties-in-interest with same documentation outlined in 9-6.

487 67.9-14. A party may petition the Oneida Appeals Commission to reopen the case within three
488 years after the Declaratory Ruling has been mailed out if they can prove all of the following:

489 (a) They were not a participant in the first hearing;

490 (b) They were completely unaware that the first probate hearing occurred and they have
491 proof that they were not duly noticed; and

492 (c) They have rights which were erroneously left out of the first probate hearing.

493 67.9-15. After looking at the record of the first hearing, the Appeals Commission may rule that
494 the Petition To Reopen is not sufficient, or it may send an order to the Land Commission to
495 provide a second hearing based on the evidence provided in the Petition.

496 67.9-16. All probate Declaratory Rulings of the Land Commission or Judgments of the Appeals
497 Commission shall be recorded in the Division of Land Management.

498 (a) If fee land is part of the Ruling, it shall also be recorded at the County Register of
499 Deeds.

500 (b) If trust land is part of the Ruling, it shall also be recorded at the Department of Interior
501 Aberdeen Title Plant.

502

503 **67.10. Real Estate Trust Accounts**

504 67.10-1. A property trust account or escrow account shall be established by the Division of Land
505 Management to deposit money or property being held for the following purposes:

506 (a) To ensure receipt of mortgage satisfaction from seller;

507 (b) Tax, insurance and utility payments held in escrow;

508 (c) Security deposits on rental property;

509 (d) Administrative fee;

510 (e) Earnest money;

511 (f) Any other receipts pertaining to real property transfer.

512 67.10-2. Division of Land Management Staff shall deposit all funds received within 48 hours.

513 67.10-3. The name Real Estate Trust Account and the Division of Land Management's name
514 shall appear on all checks, share drafts or drafts from this account.

515 67.10-4. Within 10 days of opening or closing the account, the Division of Land Management
516 shall notify the tribe's Internal Auditor of the name and number of the account, person(s)
517 authorized to sign trust account checks and the name of the depository institution.

518 67.10-5. Receipt of earnest money shall be written on the relevant document pertaining to the
519 transaction.

520

521 **67.11. Leasing of Real Property**

522 67.11-1. All leasing of tribal land shall be processed ~~through the Division of Land Management.~~

523 ~~67.11-2. Commercial, Agricultural and Residential Leases of tribal trust land are available, in~~
524 ~~accordance with preference given to Oneida tribal citizens and programs~~ the Tribe's Leasing law.

525 ~~67.11-3. All leases shall include the responsibility of the lessee and lessor regarding the~~
526 ~~following principles:~~

527 ~~(a) Possession of Leased Premises;~~

528 ~~(b) Improvements;~~

529 ~~(c) Maintenance of Premises;~~

530 ~~(d) Assignment and Subleasing;~~

531 ~~(e) Options to Renew;~~

532 ~~(f) Destruction of Premises;~~

533 ~~(g) Termination of Lease;~~

534 ~~(h) Breach of Lease;~~

535 ~~(i) Use of Premises;~~

536 ~~(j) Term of Lease;~~

537 ~~(k) Security Deposit.~~

538 ~~67.11-4. Assignment of leasehold interest for the purpose of financing shall be processed and~~
539 ~~recorded at the appropriate office by the Division of Land Management. No assignment or related~~
540 ~~encumbrance to the leasehold interest shall be valid without approval and recordation through~~
541 ~~procedures established by the Division of Land Management.~~ 11-5. In the event of default by the
542 Lessee of the terms of an approved encumbrance, and the Lessee's assignment reaches the point
543 of sale or foreclosure, the Division of Land Management shall have the right to correct the
544 default. If the default is corrected under these circumstances the Lessee will be subject to further
545 proceedings under the Oneida Administrative Procedures Act, Section 10 Contested Cases, which
546 may lead to termination of Lessee's lease, loss of improvements, revised payment schedule and/or
547 Garnishment of Lessee's wages in order to pay the remainder of the default.

548

549 **67.12. Records**

550 67.12-1. *Purpose.* The purpose of recording is to provide evidence of activities that effect land
551 title; preserve a record of the title document; and give constructive notice of changes to the title.

552 67.12-2. *Types Of Record.* The Division of Land Management shall develop a system for timely
553 recording of Oneida Reservation title documents, including the following:

- 554 (a) Deeds
- 555 (b) Probate orders
- 556 (c) Mortgages and other valid liens
- 557 (d) Easements, covenants, restrictions
- 558 (e) Certified Survey Maps and Plats of survey
- 559 (f) Patents
- 560 (g) Declarations of Involuntary Transfer or Taking
- 561 (h) Satisfactions
- 562 (i) Leases
- 563 (j) Contracts
- 564 (k) Home Purchase Agreements
- 565 (l) Correction of Title defects

566 67.12-3. *Recordable Documents.* The original, a signed duplicate, or certified copy of the title
567 document listed above shall be submitted for recording.

568 67.12-4. *Accessibility.* It is the policy of the Division of Land Management to allow access to
569 land records and title documents unless such access would violate the Privacy Act (5 U.S.C.
570 552a).

571 67.12-5. *Certification.* Upon request, the Legal Services office will conduct a title examination
572 of a tract of land by a qualified title examiner and provide a title status report to those persons
573 authorized by law to receive such information, along with certification of these findings by the
574 staff attorney.

575 67.12-6. *Tribal Seal.* The Land Commission is empowered to have made and provided to the
576 Division of Land Management the seal of the Oneida Tribe to be used to authenticate documents
577 which are certified by the staff attorney.

578

579 **67.13. Real Estate Licensing**

580 67.13-1. *General.* Any person engaged in the business of buying, selling, advertising, listing or
581 leasing tribal property shall be required to hold a Tribal Property License. A license requirement
582 is established in order to protect the tribe and its members from fraud, dishonesty or
583 incompetence in the negotiation and transfer of real property.

584 67.13-2. *Who Must Be Licensed.*

585 (a) *Tribal Property Brokers.* A Tribal Property Broker is defined as any person who has
586 training in all aspects of real property, and acts for another person or the tribe to perform
587 any of the following real property duties:

- 588 (1) selling;
- 589 (2) listing;
- 590 (3) buying;
- 591 (4) leasing;
- 592 (5) renting;
- 593 (6) exchanging;
- 594 (7) negotiating any of above activities.

595 (b) *Salespersons.* A Tribal Property Salesperson is defined as any person who assists a
 596 Broker in accomplishing any of the above real property duties, and has been certified to
 597 have received the level of training outlined in this Law.

598 (c) *Apprentices.* Any person desiring to act as an tribal property salesperson shall file
 599 with the Division of Land Management an application for a license. A GED, HSED or
 600 high school diploma is required, except for those who write and pass a preliminary
 601 examination covering general knowledge including reading, writing, arithmetic and
 602 general real estate terminology.

603 67.13-3. *Exceptions.* This Section does not apply to the following:

- 604 (a) persons who perform real property duties on their own property;
- 605 (b) receivers, trustees, administrators, executors, guardians or persons appointed by or
 606 acting under the judgment or order of any judicial system;
- 607 (c) tribal public officers while performing their official duties;
- 608 (d) banks, savings and loan associations and other designated financial institutions when
 609 transacting business within the scope of their corporate powers as provided by law;
- 610 (e) any licensed attorney who, incidental to the general practice of law, negotiates loans
 611 secured by real estate mortgages or encumbrances or transfers of real estate;
- 612 (f) employees, such as janitors, custodians or other employed by the tribe who show
 613 property or accept lease applications as an incidental part of their duties.
- 614 (g) persons who list, sell, or transfer real property for a cemetery association of a church,
 615 tribal program or other nonprofit organization.

616 67.13-4. *Licensing Procedure*

617 (a) *Education Requirements.* Conference seminars, courses at accredited institutions, and
 618 Oneida Career Center classes will be accepted as proof of the hours of education received
 619 by an applicant.

620 (1) Each applicant for a salesperson's license must submit to the Division of Land
 621 Management, proof of attendance at 45 classroom hours of educational programs
 622 dealing with State, Federal and Tribal transfer of Real Property. At least 25
 623 classroom hours shall cover Tribal and Federal real property law.

624 (2) Each applicant for a broker's license must submit to the Division of Land
 625 Management, proof of attendance at 90 classroom hours of education programs
 626 addressing State, Federal and Tribal transfer of Real Property.

627 (b) *Experience Requirements.* Each applicant for a tribal broker's license must submit to
 628 the Division of Land Management, proof of at least one year of experience as a real
 629 property salesperson, or as a broker in another jurisdiction.

630 (c) *Examination.* The Licensing Examination for tribal brokers and salespeople shall be
 631 administered through the Oneida Career Center.

632 (1) Land Commission will create a test which will contain the following materials:

- 633 (A) 50% Tribal Law
- 634 (B) 30% Federal Law
- 635 (C) 20% Wisconsin Law

636 (2) A score of 75% or better on each portion of the examination is required to
 637 pass. If an applicant fails any of the three portions of the exam, that applicant will
 638 have six opportunities to retake the failed portion within the following six months.
 639 If that applicant cannot pass the failed portion within the following six months, he
 640 or she must retake the entire exam to qualify for a license.

641 (d) *Fees.* The following fees are applicable to tribal licensees. The Land Commission
 642 will establish an equitable fee schedule for the following:

- 643 (1) issuance of a tribal salesperson or broker license
- 644 (2) annual renewal fee for a tribal salesperson or broker license
- 645 (3) late penalty for filing within 30 days of expiration
- 646 (4) late penalty for filing within year of expiration
- 647 (5) Test fee

648 (e) *Licensing.* An applicant who has passed the appropriate license examination and has
 649 complied with the necessary requirements will be granted a license by the Oneida Land
 650 Commission. The license authorizes the licensee to engage in the activities of a tribal real
 651 property broker or salesperson as described in this Law. All licenses shall show the name
 652 and business address of the licensee.

653 67.13-5. *Rules Of Responsibility*

654 (a) The intent of this section is to establish minimum standards of conduct for real
 655 property licensees and to define that conduct which may result in Land Commission action
 656 to limit, suspend or revoke the license of a real property broker, salesperson or apprentice,
 657 or impose a fine.

658 (b) Violations of rules in this section may demonstrate that the licensee is incompetent, or
 659 has engaged in improper, fraudulent or dishonest dealings.

660 (1) A licensee has an obligation to treat all parties to a transaction fairly.

661 (2) In order to comply with Federal and Tribal law, licensees shall not
 662 discriminate against, nor deny equal services to, nor be a party to any plan or
 663 agreement to discriminate against a person because of sex, race, color, handicap,
 664 religion, national origin, sex or marital status of the person maintaining a
 665 household, lawful source of income, sexual orientation, age or ancestry.

666 (3) Licensees shall not provide services which the licensee is not competent to
 667 provide unless the licensee engages the assistance of one who is competent.

668 (4) Licensees shall be knowledgeable regarding laws, public policies and current
 669 market conditions on real estate matters and assist, guide and advise the buying
 670 and selling public based upon these factors.

671 (5) Licensees shall not advertise in a matter which is false, deceptive, or
 672 misleading.

673 (6) Licensees shall not personally accept any commission, rebate, or profit from
 674 any of their real property dealings.

675 (7) Licensees shall not engage in activities that constitute the unauthorized
 676 practice of law.

677 (8) Licensees shall not discourage any person from retaining an attorney.

678 (9) Licensees shall not exaggerate, misrepresent or conceal material facts in the
 679 practice of real estate.

680 (10) Licensees shall not knowingly transmit false information.

681 (11) No licensee shall draft or use any document which the licensee knows falsely
 682 portrays an interest in real estate.

683 (12) Licensee shall not disclose any of the terms of one prospective buyer's offer
 684 to purchase to any other prospective buyer.

685 (13) Licensee shall not issue checks upon trust accounts which contain insufficient
 686 funds.

687 (14) Licensees shall notify the Division of Land Management if they are convicted
 688 of a crime, except motor vehicle offenses, so that a determination can be made
 689 whether the circumstances of the crime are substantially related to the practice of a
 690 tribal real property broker or salesperson.

691 (15) Licensees shall not render services while the ability of the licensee to
 692 competently perform duties is impaired by mental or emotional disorder, drugs or
 693 alcohol.

694 (16) Licensee shall not enter into overlapping agreements that could be construed
 695 as dual agency.

696 **67.13-6. Penalties For Violation Of This Law**

697 (a) Fines for minor infractions may be imposed by the Land Commission for any amount
 698 up to \$50.00. Minor infractions may include the first three infractions of the above listed
 699 offenses, or others as defined by the Land Commission.

700 (b) The Land Commission shall provide a fair hearing, as per Oneida Nation
 701 Administrative Procedure Act, Section 10. Contested Cases, for any person alleged to
 702 have violated this section, before a penalty is ordered.

703 (c) Major infractions of this section may lead to an action to limit, suspend or revoke the
 704 license of the defendant; disposition of a fine for any amount up to \$500; and/or penalties
 705 and judgments authorized by the Oneida Administrative Procedures Act Section 10(e).

706 **67.13-7. Licensing Fee For Non-tribal Brokers.** The Division of Land Management is
 707 empowered to develop a licensing fee schedule and collection procedures for all brokers who
 708 enter a consensual agreement to sell property to the Oneida tribe and are not licensed by this Law.
 709 These fees will be used for maintenance of services and management of Real Property within the
 710 authority of this Law.

711

712 **67.14. Real Estate Financing**

713 67.14-1. The goal of tribal loan programs is to maintain and improve the standard of living for
 714 tribal members, while protecting and expanding the Tribal Land base.

715 67.14-2. Consistent with available funds, the Division of Land Management shall provide loan
 716 programs for the following purposes:

717 (a) Financing the purchase or down payment of existing homes and lands,

718 (b) Construction of new homes,

719 (c) Repair and improvement to existing homes,

720 (d) Refinancing existing mortgages,

721 (e) Purchasing or refinancing mobile homes,

722 (f) Consolidation of Loans, and

723 (g) Real Estate Tax Arrearage.

724 **67.14-3. Eligibility Requirements For All Loans:**

725 (a) All applicants must be 21 years of age.

726 (b) Applicant(s) must be an enrolled member of the Oneida Tribe.

727 (c) Financed property must be located within the boundaries of the Oneida Reservation.

728 (d) Applicants must have an acceptable credit rating.

729 **67.14-4.** All loan programs are provided only to tribal members in order to respond to the Oneida
 730 Tribe's legislative purpose of expanding and maintaining tribal jurisdiction over all land within
 731 the boundaries of the Oneida Reservation, while fulfilling basic membership needs for adequate
 732 housing.

733 (a) The applicant for any loan must list one to three Oneida Tribal members who will
 734 inherit any interest in Real Property mortgaged by a Tribal loan program, upon death of
 735 the applicant.

736 (b) If the spouse of an applicant is a non-tribal member, he/she may continue to pay off
 737 the loan, as long as he/she agrees to list three tribal beneficiaries in case of death. Once

738 the loan is satisfied, the designation of beneficiaries to the mortgaged interest in fee
739 property will lapse.

740 (c) If the applicant and non-tribal spouse commence divorce proceedings, the Division of
741 Land Management may

742 (1) refinance the enrolled member's loan balance so he/she may secure the entire
743 property,

744 (2) provide an offer to purchase the entire property and pay off liens,

745 (3) consider some other financial agreement that would assist the tribal applicant
746 in retaining property within the boundaries of the reservation.

747 (d) A non-tribal spouse shall sign an affidavit at the time that a tribal loan is accepted
748 indicating he/she is informed of this regulation and consent to the tribal spouse receiving a
749 mortgage against homestead property, held in fee, with this condition attached.

750 67.14-5. *Foreclosures*

751 (a) *Default.* Any Tribal Loan that is in default for three consecutive months is subject to
752 foreclosure proceedings, provided that a Notice of Arrears, showing the increasing
753 amounts payable to cure the default, has been sent to the loan holder(s) each month by the
754 Loan Officer.

755 (b) *Decision To Foreclose.*

756 (1) After three notices, the Loan Officer will provide the Director of Land
757 Management, and the Loan Committee, all documents and information necessary
758 to determine whether or not foreclosure proceedings should be started.

759 (2) Any recommendation to foreclose will be put on the next Land Commission
760 agenda for concurrence, scheduling of a hearing, and designation of a three-person
761 hearing body.

762 (3) Each member of the three-person hearing body will receive \$150 for being
763 present at the scheduled hearing, reviewing all information presented, and
764 providing a final decision, opinion, order or report based on their deliberations,
765 except for employees of the Oneida Tribe who have permission to be a part of the
766 hearing body as part of their job.

767 (4) The Director of Land Management will make provisions for necessary clerical
768 support for the three-person hearing body.

769

770 **67.15. Tribal Real Estate Taxes**

771 67.15-1. Regulations for the promulgation of a Real Estate Tax Code will be developed by the
772 Division of Land Management by October 1, 1996, in order to provide for increasing costs for
773 services provided to occupants of tribal land, such as environmental services, public roads, fire
774 protection, recycling, garbage pick-up, water and sewer, transportation, traffic control, loans, and
775 management of real property.

776

777 **67.16. Organization**

778 67.16-1. General

779 (a) The Division of Land Management shall administer all transactions that come under
780 this Law.

781 (b) All tribal agencies will process any type of real property acquisition, including
782 donations, through the Division of Land Management.

783 67.16-2. Land Commission

784 (a) *Number of Commissioners.* The Commission shall be comprised of seven (7) elected
785 Tribal members.

786 (b) *Term of Office.* The terms of office for the Commissioners shall be three (3) years.
 787 Terms shall be staggered with expiring positions elected every year. The first elected
 788 Land Commissioners shall serve according to the following formula, and staggering of
 789 terms shall begin thereafter:

790 (1) The three (3) candidates receiving the three highest number votes shall serve
 791 an initial term of three (3) years.

792 (2) The two (2) candidates receiving the next two highest number votes shall serve
 793 an initial term of two (2) years.

794 (3) The two (2) candidates receiving the next two highest number of votes shall
 795 serve an initial term of one (1) year.

796 (4) In the event of a tie vote in the first election, a coin toss shall determine which
 797 candidate shall serve the longer term.

798 (c) *Powers and Duties.* The Land Commission shall have the following powers and
 799 duties:

800 (1) The Land Commission shall set standards of professional competence and
 801 conduct for the professions detailed in this Law, review the examination grades of
 802 prospective new practitioners, grant licenses, investigate complaints of alleged
 803 unprofessional conduct, and perform other functions assigned to it by law.

804 (2) Hear and decide, as the original hearing body, contested cases that may arise
 805 from this Law.

806 (3) Implement and interpret the provisions of this Law.

807 67.16-3. Administration

808 (a) Director of Division of Land Management. The Director shall have the following
 809 powers and duties:

810 (1) Hire, train, and establish operational and objective commitments for support
 811 staff needed to implement this Law.

812 (2) Supervise staff in accordance with Tribal Personnel Policies and Procedures.

813 (3) Provide Declaratory Ruling per procedures in this Law and the Oneida Nation
 814 Administrative Procedures Act.

815 (4) Implement all aspects of this Law through the Oneida Tribal Planning and
 816 Budgeting Process.

817
 818 *End.*

~~819~~

822 Adopted - BC-5-29-96-A

823 Amended-BC-3-01-06-D

824 Amended-BC-04-28-10-E

825

CHAPTER 67
REAL PROPERTY LAW
Tokáske Kayanláhsla Tsi? Ni?yohuntsya'té
The real/certain laws of the territory of the nation

67.1. Purpose and Policy	67.9. Disposition Of Estates Of Deceased Tribal Members
67.2. Adoption, Amendment, Conflicts	67.10. Real Estate Trust Accounts
67.3. Rules Of Statutory Construction	67.11. Leasing of Real Property
67.4. Definitions	67.12. Records
67.5. Interests In Real Estate: Individual Or Tribal	67.13. Real Estate Licensing
67.6. Holding Of Ownership	67.14. Real Estate Financing
67.7. Legal Descriptions	67.15. Tribal Real Estate Taxes
67.8. Title Transfer	67.16. Organization

1
2 **67.1. Purpose and Policy**

3 **67.1-1. Purpose**

4 (a) The purpose of this Law is to provide regulations and procedures for the transfer,
5 control and management of the territory within the exterior boundaries of the Reservation
6 of The Oneida Tribe of Indians of Wisconsin and such other lands as may be added
7 within or without said boundary line; and to integrate these regulations and procedures
8 with the present real property laws and practices of other federal and state sovereigns
9 which may hold applicable jurisdiction within the reservation.

10 (b) In addition, this Law establishes a training and licensing mechanism for any person
11 who lists, sells, buys, exchanges, leases, rents, or deals in any way with real property
12 coming under the scope of this Law.

13 (c) Nothing in this Law shall be construed as a waiver of the sovereign immunity of the
14 Oneida Tribe of Indians of Wisconsin.

15 **67.1-2. Policy**

16 (a) The provisions of this Law shall extend to all tribal lands and waters held in trust, all
17 tribal lands and waters held in fee status, all fee status lands under the control of
18 individual Oneida members, all heirship lands and waters and all individual and tribal
19 trust lands and waters, all within the exterior boundaries of the Oneida Tribe of Indians of
20 Wisconsin Reservation; and to such other lands as may be hereafter added, both within
21 and without the exterior boundaries of the Oneida Reservation, under any law of the
22 United States, except as otherwise provided by law.

23 (b) The licensing provisions of this Law shall extend to any person who lists, sells, buys,
24 exchanges, leases, rents or deals in any way with real property coming under 67.1-2(a), of
25 this Law, including employees of the tribe.

26 (c) Any transaction which would add property to the tribal land base shall be
27 administered through the Division of Land Management under the provisions of this
28 Law.

29 (d) The sale of tribal land is specifically prohibited under this Law, except for the
30 purposes of consolidation or partition of property.

31 (e) It is not intended by this Law to repeal, abrogate, annul, impair or interfere with any
32 rules, regulations, or permits previously adopted or issued pursuant to tribal or federal
33 laws. Further, it is intended that Wisconsin law be considered as an integral part of real
34 property transfer occurring within or without the Reservation, insofar as the transaction is
35 between a non-Oneida person(s) who hold fee simple title to land within the Reservation
36 and the Tribe or a tribal member.

37 (f) Expenses and Fees. The Land Commission shall establish an equitable fee schedule
 38 for each activity or service provided in this Law. All fees collected will be used for the
 39 maintenance of services and management of lands which come under the authority of this
 40 Law.¹

41 42 **67.2. Adoption, Amendment, Conflicts**

43 67.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-5-29-96-A
 44 and amended by resolutions BC-3-01-06-D and BC-04-28-10-E.

45 67.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to
 46 the procedures set out in the Legislative Procedures Act.

47 67.2-3. Should a provision of this Law or the application thereof to any person or circumstances
 48 be held as invalid, such invalidity shall not affect other provisions of this Law which are
 49 considered to have legal force without the invalid portions.

50 67.2-4. In the event of a conflict between a provision of this law and a provision of another law,
 51 the provisions of this law shall control. Provided that, nothing in this law is intended to repeal or
 52 modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

53 76.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of
 54 Wisconsin.

55 56 **67.3. Rules Of Statutory Construction**

57 67.3-1. General words are understood to be restricted in their meaning by more specific words
 58 which came before.

59 67.3-2. If the meaning of a general word cannot be reconciled with the meaning of a specific
 60 word in this Law the specific word will control.

61 67.3-3. When a series of words of general meaning is followed by words of limitation, the
 62 limitation will apply only to the last word in the list, unless otherwise stated.

63 67.3-4. The word “shall” is mandatory and the word “may” is permissive.

64 67.3-5. The Law should be read as a whole. The words are not meant to be isolated, and their
 65 meaning must be found in reference to the statement as a whole.

66 67.3-6. If a later enacted Law or statute cannot be read in agreement with an earlier enactment,
 67 the later enactment will control when interpreting the meaning from context.

68 67.3-7. “Land” is used to mean the earth’s surface extending downward to the center of the earth
 69 and upward to infinity, including things permanently attached by nature, such as tree and water.

70 67.3-8. “Real Estate” is used to mean the earth’s surface extending downward to the center of
 71 the earth and upward to infinity, including all things permanently attached to it, whether natural
 72 or permanent man-made additions.

73 67.3-9. “Real Property” or “Property” is used to mean the earth’s surface extending downward
 74 to the center of the earth and upward to infinity, including all things permanently attached to it,

¹ Other laws that are relevant to the purpose and implementation of this Law include:

Oneida Shoreland Protection Ordinance

Oneida Zoning Ordinance

Oneida Administrative Procedures Act

25 CFR 150-179 (Land and Water)

25 CFR 15 (Probate)

25 CFR 261-265 (Heritage Preservation)

Wisconsin Statutes and Administrative Code relating to the practice of Real Estate
 State and Federal Laws specifically cited in Ordinance

75 whether natural or permanent man-made additions, plus the bundle of legal rights which include
76 control, exclusion, possession, disposition and enjoyment.

77 67.3-10. The word “Person” when used in this Law includes individuals, corporations or
78 partnerships.

79

80 **67.4. Definitions**

81 67.4-1. Accounting. The responsibility of a broker to report the status of all funds received from
82 or on behalf of the principal.

83 67.4-2. Agency. Any tribal entity, board, commission, committee, department or officer
84 authorized by the Oneida Tribe to propose Law/rules for adoption by the Oneida Business
85 Committee. The term “Agency” shall not include the Oneida Business Committee or a tribal
86 appeals body.

87 67.4-3. Appraisal. A process of estimating a property’s value.

88 67.4-4. Attorney. A person trained and licensed to represent another person in court, to prepare
89 documents defining or transferring rights in property and to give advice or counsel on matters of
90 law.

91 67.4-5. Broker. A person who acts as an agent and negotiates the sale, purchase or rental of
92 property on behalf of others for a fee, and must be licensed under this Law under certain
93 circumstances.

94 67.4-6. Bundle of Rights. The “rights” of ownership include the right of possession, the right to
95 control the property within the framework of the law, the right of enjoyment, the right of
96 exclusion and the right of disposition.

97 67.4-7. Buyer. The person who hires a broker to find a parcel of real estate that has certain
98 characteristics or is usable for specific purposes; or the person who buys a piece of real estate
99 from a seller broker or salesperson.

100 67.4-8. Care. The broker must exercise a reasonable degree of care and skill while transacting
101 the business of the principal.

102 67.4-9. Certified Survey Map. A map officially filed and approved by the County, Tribal or
103 municipal governments, which provides the legal description of any land in question.

104 67.4-10. Contested Cases. A proceeding before an Agency in which an opportunity for a
105 hearing before the Agency is required by law prior or subsequent to the determination of the
106 Agency of the legal rights, duties, or privileges of specific parties unless otherwise provided for
107 by tribal law. This includes the revocation, suspension or modification of a license or permit
108 when a grant of such application is contested by a person directly affected by said licensing or
109 permitting. See Oneida Administrative Procedures Act.

110 67.4-11. Counseling. Providing clients with competent independent advice based on sound
111 judgment, on such things as alternative courses of action regarding the purchase, use and
112 investment of property.

113 67.4-12. Development. The construction of improvements on land.

114 67.4-13. Disclosure. The broker’s duty to keep the principal fully informed at all times of all
115 facts or information the broker obtains that could affect the transaction.

116 67.4-14. Dual Agency. When a broker receives compensation from both buyer and seller in a
117 transaction.

118 67.4-15. Education. The provision of information to both the real estate practitioner and the
119 consumer.

120 67.4-16. Fiduciary. One who is placed in a position of trust and confidence and normally is
121 responsible for the money and/or property of another. A broker and a salesperson are both
122 fiduciaries.

- 123 67.4-17. Financing. Financing is the business of providing funds by means of a mortgage loan.
 124 67.4-18. Fixtures. Articles that were once personal property but has been so affixed to land or a
 125 building that the law construes it to be part of the real estate.
 126 67.4-19. Fraud. The intentional misrepresentation of a material fact in such a way as to harm or
 127 take advantage of another person. In addition to false statements about a property, the concept of
 128 fraud covers intentional concealment or nondisclosure of important facts.
 129 67.4-20. Individual Fee Land. Land held in fee by an individual or group of individuals.
 130 67.4-21. Individual Tribal Property. Real property owned by an Oneida Tribal member in fee or
 131 held in trust for that member by the United States of America.
 132 67.4-22. Individual Trust Land. Land held by the United States of America in trust for the
 133 benefit of an individual Tribal member.
 134 67.4-23. Intestate. One who dies without having made a will; or property not disposed of by
 135 will.
 136 67.4-24. Law of Agency. The body of law that governs the rights and duties of principal, agent
 137 and third persons.
 138 67.4-25. Mobile Home. A building which, when originally constructed, was prefabricated and
 139 on wheels to allow movement from one location to another with minimal modifications
 140 necessary to attach utilities. It is considered to be personal unless it is permanently affixed to the
 141 land, at which point it is considered real property.
 142 67.4-26. Personal property or Personalty. All property that does not fit the definition of real
 143 property, and usually the characteristic of being “movable.”
 144 67.4-27. Plat Map. Map of a piece of property that may be a part of a larger parcel of real estate
 145 or may be composed of several smaller ones which the surveyor resurveys. This new map is
 146 called a Plat map, and it creates a new legal description which must be tied to the description on
 147 a Certified Survey Map(s), to be considered acceptable for transfer of property.
 148 67.4-28. Probate. An official authentication of a will, and/or official administration of an estate
 149 of a deceased person.
 150 67.4-29. Reservation. That area within the exterior boundaries as set out in the 1838 Treaty with
 151 the Oneida 7 Stat. 566, and that land purchased and held by the United States of America in trust
 152 for the Oneida Tribe of Indians of Wisconsin outside those exterior boundaries
 153 67.4-30. Salesperson. A person who receives a fee or commission to work on behalf of the
 154 broker, and must be licensed under this Law under certain circumstances.
 155 67.4-31. Subsurface Rights. The rights to natural resources lying below the earth’s surface.
 156 67.4-32. Sun Rights. A solar energy owner’s right to access to the sun.
 157 67.4-33. Surface Rights. The rights to use the surface of the earth within boundaries defined in
 158 a transfer of real property.
 159 67.4-34. Tribal Fee Land. Land held in fee by the Oneida Tribe.
 160 67.4-35. Tribal Property. Real property owned by the Oneida Tribe in fee or held for the Tribe
 161 by United States of America.
 162 67.4-36. Tribal Trust Land. Land held by the United States of America in trust for the benefit of
 163 the Oneida Tribe.
 164 67.4-37. Tribe. Oneida Tribe of Indians of Wisconsin. Also known as the Sovereign Oneida
 165 Nation in Wisconsin, and On[^]yote[>] a-ká.
 166

167 **67.5. Interests In Real Estate: Individual Or Tribal**

- 168 67.5-1. Fee Simple Absolute. The greatest interest of ownership or distribution in a parcel of
 169 land that it is possible to own i.e. no conditions. Sometimes simply designated as fee. Tribal

170 individuals, non-tribal individuals and tribal government may hold fee interest in land within the
171 Oneida Reservation.

172 67.5-2. Leasehold. The interest in fee or trust property that is qualified by some future
173 determinant such as time, age, or an act/incident.

174 67.5-3. Fee or Trust subject to a Condition. An interest which includes a proviso in the deed or
175 will that upon the happening or failure to happen of a certain event, the title of the purchaser or
176 devisee will be limited, enlarged, changed or terminated.

177 67.5-4. Life Lease. A lease of the right of use and occupancy of Tribal Fee or Trust Lands for
178 the life of an individual either Oneida tribal or non-tribal.

179 67.5-5. Trust. Land held by the United States of America in trust for the Oneida Tribe of
180 Indians of Wisconsin, or for a member of this tribe.

181 67.5-6. Life Use, or Estate. A claim or interest in individual trust property by a non-tribal
182 spouse, not amounting to ownership, and limited by a term of life of the person in whom the
183 right is vested.

184

185 **67.6. Holding Of Ownership**

186 67.6-1. Interests in land by more than one person may be held in the following ways:

187 (a) Joint tenancy with right of survivorship: Each owner has an equal, undivided interest
188 in the property. As an owner dies, their share is divided among the remaining owners, so
189 the last living owner owns the entire property.

190 (b) Tenancy in common. Each owner has a percentage interest in the property. As an
191 owner dies, that owner's interest is divided among his or her devisees or heirs. Two or
192 more individuals holding property are tenants in common unless:

193 (1) a deed, transfer document or marital property agreement specifically states
194 the property is held as joint tenants with rights of survivorship; or

195 (2) a married couple holds the property without a marital property agreement that
196 specifically states the property is held as tenants in common.

197

198 **67.7. Legal Descriptions**

199 67.7-1. The legal description for any land transferred under this Law will be derived from a
200 Certified Survey Map (CSM) or Plat of Survey completed by a registered Land Surveyor
201 according to currently accepted minimum standards for property surveys. If the Plat of Survey
202 changes the legal description of the CSM for the same piece of property, the CSM legal
203 description will be used on transfer documents along with the Plat of Survey description
204 designated "**Also Known as ...**" Section, Township, Range and Fourth Principal Meridian must
205 be within all tribal legal descriptions.

206 67.7-2. Every land survey shall be made in accordance with the records of the County Register
207 of Deeds for fee land, and in accordance with the records of the Oneida Division of Land
208 Management for all trust lands. The surveyor shall acquire data necessary to retrace record title
209 boundaries such as deeds, maps, certificates of title, Title Status Reports from the Bureau of
210 Indian Affairs, Tribal Leases, Tribal Home Purchase Agreements, center line and other boundary
211 line locations.

212 67.7-3. Legal description defining land boundaries shall be complete providing unequivocal
213 identification of line or boundaries.

214 67.7-4. In addition to Survey Map requirements outlined in Wisconsin Administrative Code,
215 Chapter A-E7, all surveys prepared for the Oneida Tribe should indicate setbacks, building
216 locations and encroachments.

217 67.7-5. Legal descriptions will be used on transfer documents formalizing a purchase, real estate
 218 sale, lease, foreclosure, probate transfer to beneficiaries or trust acquisition and tribal resolutions
 219 indicating legislative approval.

220 67.7-6. When real estate is listed for sale or lease to tribal members, the address is considered an
 221 adequate legal description of the property.

222

223 **67.8. Title Transfer**

224 67.8-1. General. It is presumed that the intentions of parties to any real property transfer are to
 225 act in good faith. For this reason, this shall be liberally construed when faced with conflict or
 226 ambiguity in order to effectuate the intentions of the parties.

227 67.8-2. The Division of Land Management shall use only those title companies duly registered
 228 with the Department of Interior and approved by the Division of Land Management to update
 229 abstracts or provide Title Insurance on real property scheduled for trust acquisition.

230 (a) Title Companies must follow general guidelines provided by federal government in
 231 terms of form, content, period of search, destroyed or lost records and Abstracter's
 232 Certificate.

233 (b) When researching Land title within the reservation which is being considered for
 234 trust acquisition, the Title Company will be requested to search the title back to the
 235 original allottee, to assure that patents or Indian Deeds were legally issued.

236 (c) Any valid liens or encumbrances shown by the Commitment for Title Insurance must
 237 be eliminated before the Title is transferred into Trust.

238 (d) After land is in trust, title search of County records is no longer acceptable. Title
 239 Status Reports from Oneida Division of Land Management or the Bureau of Indian
 240 Affairs shall be used to verify all valid encumbrances, if any, on the title. A valid
 241 encumbrance is one that has been preapproved, in writing, by the Division of Land
 242 Management.

243 67.8-3. The Warranty Deed is the formal document used by the Division of Land Management
 244 to transfer title from one party to another. It shall not be considered valid unless it is in writing
 245 and:

246 (a) Identifies the grantor and grantee;

247 (b) Provides the legal description of the land;

248 (c) Identifies the interest conveyed, as well as any conditions, reservations, exceptions,
 249 or rights of way attached to the interest.

250 (d) Is signed by or on behalf of each of the grantors;

251 (e) Is signed by or on behalf of each spouse, and

252 (f) Is delivered.

253 67.8-4. A Warranty Deed prepared for Trust Acquisition shall, in addition to that listed in 8-3,
 254 include the following:

255 (a) The federal authority for Trust Acquisition:

256 (b) Any exceptions or exclusions from State fees or other transfer requirements;

257 (c) The approximate acreage of the real property being transferred to Trust; and

258 (d) The authority and signature of the appropriate Department of Interior official who
 259 accepts the real property into Trust.

260 67.8-5. A Warranty Deed transferring fee simple title shall be recorded in the appropriate Register
 261 of Deeds office. Once the real property is in trust, the Title shall be recorded with the Oneida
 262 Division of Land Management and the Aberdeen Title Plant for the United States Department of
 263 the Interior.

264 67.8-6. An involuntary Transfer of title may occur in the following ways:

265 (a) Tribal Eminent Domain is the right of the Tribal Government to acquire private land
 266 for public uses without the consent of private owners. Public uses include, but are not
 267 limited to, environmental protection, streets, highways, sanitary sewers, public
 268 utility/sites, waste treatment facilities and public housing. Attempts must first be made to
 269 negotiate an agreeable taking by the Tribal Government; thence provide an offer to
 270 purchase based on a tribal appraisal of the property; and provide compensation for the
 271 taking. Provision for required hearing on the taking and appeals to the Oneida Appeals
 272 Commission can be found in the Oneida Administrative Procedures Act.

273 (b) Foreclosures may occur whenever a tribal member ceases payment on a mortgage for
 274 leasehold improvements, a tribal home purchase agreement, or home improvement loan.
 275 If the loan is through a public lending institution the Tribe may choose to pursue its option
 276 to purchase the loan and finalize the foreclosure through the Division of Land
 277 Management. A decision to foreclose shall be handled as a Contested Case according to
 278 the Oneida Nation Administrative Procedures Act, Section 10. Contested Cases and 11.
 279 Appellate Review. Also see 14-5 of this Law.

280 (c) The Indian Land Consolidation Act was passed by Congress and became effective
 281 January 12, 1983 (Pub.L. No. 97-459, 96 Stat. 2515, and amended on October 30, 1984 by
 282 Pub.L. No. 98-608, 98 Stat. 3171). Section 207 of said Act is incorporated into this Law,
 283 which provides that if it is determined that the decedent's ownership in a given parcel of
 284 land is 2 percent or less of the total acreage, and that interest is incapable of earning
 285 \$100.00 in any one of the five (5) years from the date of the decedent's death, thence that
 286 ownership interest shall escheat, or pass, to the Tribe having jurisdiction over said land,
 287 for just compensation, unless the heirs can prove by substantial evidence that the above
 288 determination was wrong. This determination will be made through Probate proceedings
 289 in 67.9 of this Law.

290 (d) Upon the Tribe receiving majority consent from heirs, the Land Commission may
 291 approve an Order Transferring Inherited Interests under the authority of Section 205 of the
 292 Indian Land Consolidation Act provided that none of the Indians owning an undivided
 293 interest is willing to purchase or match the tribes offer.

294 (e) An Involuntary Transfer of Title cannot occur without a hearing in front of the Land
 295 Commission, or its designated subcommittee, under procedures of the Oneida Nation
 296 Administrative Procedures Act, Section 9. Declaratory Ruling, or Section 10. Contested
 297 Cases.

298 (f) Easements for Landlocked Properties. A procedure for handling a request for an
 299 easement will be developed and approved by the Land Commission.

300 67.8-7. Records. All documents pertaining to trust property within the Oneida Reservation shall
 301 be recorded in the United States of America Aberdeen Title Plant as well as the Division of Land
 302 Management. See also Section 12.

303 67.8-8. All Individual and Tribal lands purchased in fee shall be transferred to Trust held by the
 304 United States of America through procedures promulgated by the Division of Land Management,
 305 and supported by waivers approved by the Secretary of Interior or designate.

306

307 **67.9. Disposition Of Estates Of Deceased Tribal Members**

308 67.9-1. The purpose of this section is to formalize laws to handle the disposition of deceased
 309 tribal members' trust property, with or without a will. The intent of this section is to provide
 310 procedures which make it possible for equitable and fair decisions to be made for the surviving
 311 family, as well as promoting ongoing peace and harmony within the community.

312 (a) Tribal members holding fee land within the reservation may use the laws and
313 procedures of the State of Wisconsin or those of this Law.

314 (b) Tribal members holding trust land within the reservation shall use the laws and
315 procedures of this Section.

316 67.9-2. Non-members of The Oneida Tribe and non-citizens of the United States cannot acquire
317 Trust land through inheritance. Where interests are specifically devised to individuals ineligible
318 to inherit the following options are provided:

319 (a) Sale of interest to the Oneida Tribe or an eligible heir for its fair market value;

320 (b) Acquire a life estate in the property if an ineligible spouse and/or minor child.

321 67.9-3. Interests of Heirs who cannot be found will be sold to the Oneida Tribe at fair market
322 value, or to an eligible heir, and the money returned to the estate for distribution.

323 67.9-4. In the absence of any heir or devisee, interests will escheat to the Oneida Tribe of Indians
324 of Wisconsin.

325 67.9-5. Personal property which does not come under the guidelines of this Law, and may be
326 distributed at the traditional ten day meal by family members, include:

327 (a) Clothing, furnishings, jewelry, and personal effects of the deceased not valued at more
328 than \$100 per item.

329 (b) Ceremonial clothing or artifacts, including eagle feathers, beadwork, dance sticks,
330 flutes, drums, rattles, blankets, baskets, pottery, medicines, and animal skins.

331 67.9-6. The Land Commission, or its designated sub-committee, shall make a declaratory ruling
332 by authority of the Administrative Procedures Act, Section 9, in any case brought before them by
333 any person claiming to be an heir of the deceased and requesting any of the following
334 determinations:

335 (a) Heirs of Oneida members who die without a will (intestate) and possessed of fee or
336 trust property coming under the authority of the Oneida Tribe of Indians of Wisconsin;

337 (b) Approve or disapprove wills of deceased Oneida members disposing of trust property;

338 (c) Accept or reject full or partial renunciations of interest;

339 (d) Allow or disallow creditors' claims against estates of deceased Oneida members;

340 (e) Decree the distribution of all assets of a deceased Oneida member.

341 67.9-7. The Staff Attorney for the Division of Land Management will prepare a file for each
342 probate hearing within 30 days of receipt of a Request for Probate Hearing from anyone claiming
343 to be an heir of the deceased. Extensions to this 30 day requirement shall be requested from the
344 Land Commission when proven necessary to complete the file. Relatives and agencies will be
345 asked to cooperate in developing a complete probate file containing:

346 (a) Family history information,

347 (b) Death certificate,

348 (c) Personal and Real Property Inventory,

349 (d) BIA-IIM Account Report,

350 (e) Creditor Claims,

351 (f) Original will, if any,

352 (g) Names, addresses and phone numbers of all parties-in-interest.

353 67.9-8. Definitions As Used In This Section

354 (a) Children And Issue: Includes adopted children and children of unwed parents where
355 paternity has been acknowledged, or established by court decree. This does not include
356 non-adopted step-children.

357 (b) Parties-in-interest: This includes:

358 (1) Heirs of the decedent

359 (2) A beneficiary named in any document offered for probate, such as the will of
360 the decedent, land lease or sale agreement for real estate.

361 (3) A person named as administrator or personal representative in any document
362 offered for probate.

363 (4) Additional persons as the Land Commission may by order include who may be
364 affected by the actions of the Land Commission, or its designated sub-committee,
365 whether by receipt of or denial of any property which is a part of the action.

366 (c) Heirs: Any person who is entitled under Tribal law to an interest in the property of a
367 decedent.

368 67.9-9. *Parties-in-interest.* The net estate of a decedent, not disposed of by will, passes to his/her
369 surviving heirs or Parties-in-interest as follows:

370 (a) To the spouse:

371 (1) All Real Property.

372 (2) All other than Real Property if there are no surviving children of the decedent.

373 (3) 2 of other than Real Property of the decedent's estate if there are surviving
374 children of the decedent, or children of any deceased child of the decedent
375 (grandchildren) who take by right of representation.

376 (b) To Surviving Children and children of any deceased child of the decedent by rights of
377 representation;

378 (1) All of the estate if there is no surviving spouse, divided equally to all in the
379 same degree of kinship to the decedent. Surviving children of a deceased child of
380 the decedent will divide their parent's share.

381 (c) All of the estate to the parents, equally divided, if no surviving spouse, children or
382 children taking by right of representation.

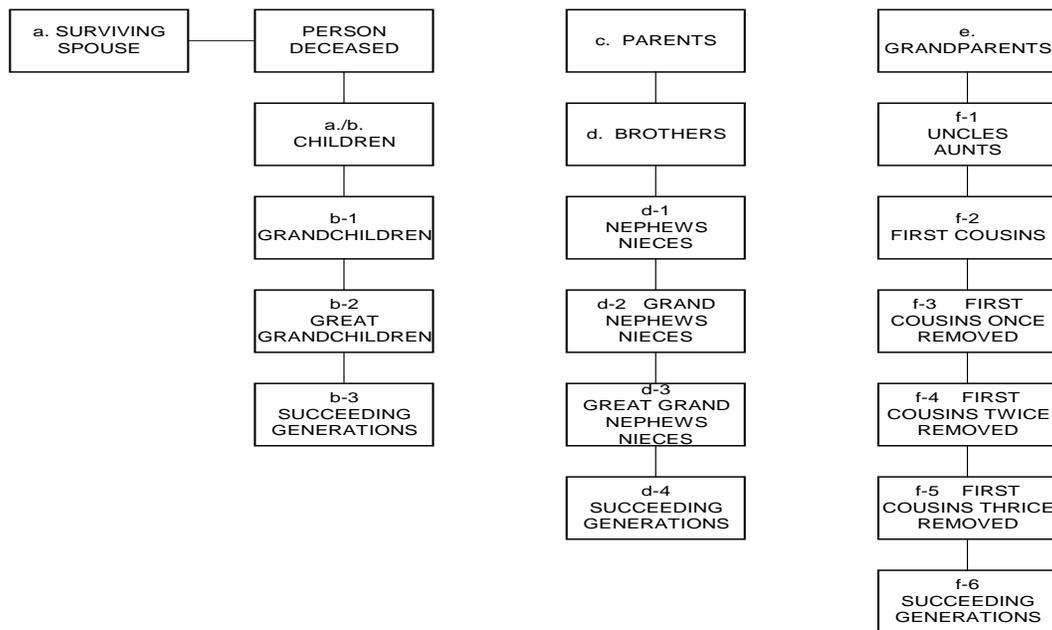
383 (d) All of the estate to the brothers and sisters and children of deceased brothers or sisters
384 by representation, divided equally, If no surviving spouse, children, or parents.

385 (e) All of the estate to the grandparents of the deceased divided equally, if no surviving
386 spouse, children parents or brothers and sisters.

387 (f) All of the estate divided equally to lineal descendants of the grandparents of the
388 deceased in the same order as (b) thru (e) if no surviving spouse, children, parents
389 brothers/sisters, or grandparents of the decedent.

390

(g) Diagram of Intestate Succession as outlined in (a) thru (f) in Figure 1.



391

(h) Any 2% interests, or less, in land, as defined in 8-6(c) of this Law.

392

67.9-10. When the Probate File is complete, it will be placed on the agenda for review by the Land Commission, who will first review it for sufficiency. If the Land Commission determines the file is incomplete, it is sent back to the Staff Attorney with further instructions. If the probate file is determined to be complete, a hearing shall be scheduled at a time when most, if not all, parties can attend.

397

(a) *Notice:* All parties-in-interest will be sent a certified personal notice of the hearing to their current or last known address. The hearing notice will also be posted at NORBERT HILL CENTER, LITTLE BEAR DEVELOPMENT CENTER and other public places within the reservation, and published in at least two issues of the Kalihwisaks, the Milwaukee Sentinel/Journal, a Green Bay Paper and an Appleton paper. The notice will include time and place for hearing, agenda, approximate length of hearing and contact person. This notice will be provided at least 10 days before the hearing takes place.

404

(b) The hearing will generally adhere to the following format:

405

(1) Rules for an open, nonjudgmental discussion shall be presented and accepted.

406

(2) Probate file is reviewed and data added or corrected based on consensus of those present.

407

(3) Ample time is provided for full discussion of the process, presentation of additional data for the file, and defining of problems or disputes to be entered into the record.

408

(4) All problems or disputes shall be settled in this hearing, with all parties-in-interest present and assisting in this resolution. This includes recommendations for clear partition of any real property held in undivided interest, and full discussion of creditor claims. This hearing shall be continued to another date only if unpredicted circumstances or unavailable information impedes the progress of resolution.

409

(5) When all problems, disputes and legal issues of the case have been resolved to the satisfaction of all parties-in-interest, the hearing body will issue its Final or Declaratory Ruling to the Director of Land Management, who will notify the Land

418

419 Commission and all parties involved in the hearing. This Final Ruling takes effect
420 60 days after mailings.

421 67.9-11. A party to a probate hearing may seek a rehearing of any of the above determinations
422 listed in 9-3 upon provision of a written request to the Director of the Division of Land
423 Management within 60 days after the Declaratory Ruling is issued. It is the responsibility of the
424 aggrieved party to make certain that adequate documentation necessitating a rehearing is attached
425 to the request.

426 (a) This request must include affidavits, witness list, summary of testimony and other
427 support documents which would provide a justifiable reason why any new information
428 was not available at the original hearing.

429 (b) If basis for rehearing is alleged procedural irregularities, the request shall include
430 complete documentation of these irregularities.

431 (c) If basis for rehearing is the constitutionality of the Law or its procedures, a legal brief
432 shall be attached to the request which clearly establishes the legal rationale for this claim.

433 (d) If basis for rehearing is that the determination is clearly erroneous, arbitrary and/or
434 capricious, a clear statement or legal brief summarizing the party's rationale for believing
435 this to be true shall be attached to the request.

436 67.9-12. The Director of Land Management will place the petition for rehearing on the first
437 agenda of the Land Commission following the receipt of the written request.

438 (a) The Land Commission may deny a rehearing if there is insufficient grounds for the
439 petition, or if the petition is not filed in a timely fashion.

440 (b) The Land Commission may order a rehearing based on the merit of the petition. The
441 petition and supporting papers are then sent to all participants of the first hearing along
442 with the date for the rehearing.

443 (c) If a rehearing is ordered, the Land Commission will adhere to the same notice
444 requirements as in the first hearing. In addition, the hearing body should be composed of
445 the same individuals responsible for the first hearing. Based on the information presented
446 at the rehearing, the hearing body may adhere to the former Ruling, modify or vacate it, or
447 make such further determinations that are warranted.

448 67.9-13. Any Declaratory Ruling given under this Section may be appealed to the Oneida Nation
449 Appeals Commission within 30 days from the date of the Ruling. The Ruling is sent to the
450 Parties-in-interest with same documentation outlined in 9-6.

451 67.9-14. A party may petition the Oneida Appeals Commission to reopen the case within three
452 years after the Declaratory Ruling has been mailed out if they can prove all of the following:

453 (a) They were not a participant in the first hearing;

454 (b) They were completely unaware that the first probate hearing occurred and they have
455 proof that they were not duly noticed; and

456 (c) They have rights which were erroneously left out of the first probate hearing.

457 67.9-15. After looking at the record of the first hearing, the Appeals Commission may rule that
458 the Petition To Reopen is not sufficient, or it may send an order to the Land Commission to
459 provide a second hearing based on the evidence provided in the Petition.

460 67.9-16. All probate Declaratory Rulings of the Land Commission or Judgments of the Appeals
461 Commission shall be recorded in the Division of Land Management.

462 (a) If fee land is part of the Ruling, it shall also be recorded at the County Register of
463 Deeds.

464 (b) If trust land is part of the Ruling, it shall also be recorded at the Department of Interior
465 Aberdeen Title Plant.

466

467 **67.10. Real Estate Trust Accounts**

468 67.10-1. A property trust account or escrow account shall be established by the Division of Land
469 Management to deposit money or property being held for the following purposes:

- 470 (a) To ensure receipt of mortgage satisfaction from seller;
- 471 (b) Tax, insurance and utility payments held in escrow;
- 472 (c) Security deposits on rental property;
- 473 (d) Administrative fee;
- 474 (e) Earnest money;
- 475 (f) Any other receipts pertaining to real property transfer.

476 67.10-2. Division of Land Management Staff shall deposit all funds received within 48 hours.

477 67.10-3. The name Real Estate Trust Account and the Division of Land Management's name
478 shall appear on all checks, share drafts or drafts from this account.

479 67.10-4. Within 10 days of opening or closing the account, the Division of Land Management
480 shall notify the tribe's Internal Auditor of the name and number of the account, person(s)
481 authorized to sign trust account checks and the name of the depository institution.

482 67.10-5. Receipt of earnest money shall be written on the relevant document pertaining to the
483 transaction.

484

485 **67.11. Leasing of Real Property**

486 67.11-1. All leasing of tribal land shall be processed in accordance with the Tribe's Leasing law.

487

488 **67.12. Records**

489 67.12-1. *Purpose.* The purpose of recording is to provide evidence of activities that effect land
490 title; preserve a record of the title document; and give constructive notice of changes to the title.

491 67.12-2. *Types Of Record.* The Division of Land Management shall develop a system for timely
492 recording of Oneida Reservation title documents, including the following:

- 493 (a) Deeds
- 494 (b) Probate orders
- 495 (c) Mortgages and other valid liens
- 496 (d) Easements, covenants, restrictions
- 497 (e) Certified Survey Maps and Plats of survey
- 498 (f) Patents
- 499 (g) Declarations of Involuntary Transfer or Taking
- 500 (h) Satisfactions
- 501 (i) Leases
- 502 (j) Contracts
- 503 (k) Home Purchase Agreements
- 504 (l) Correction of Title defects

505 67.12-3. *Recordable Documents.* The original, a signed duplicate, or certified copy of the title
506 document listed above shall be submitted for recording.

507 67.12-4. *Accessibility.* It is the policy of the Division of Land Management to allow access to
508 land records and title documents unless such access would violate the Privacy Act (5 U.S.C.
509 552a).

510 67.12-5. *Certification.* Upon request, the Legal Services office will conduct a title examination
511 of a tract of land by a qualified title examiner and provide a title status report to those persons
512 authorized by law to receive such information, along with certification of these findings by the
513 staff attorney.

514 67.12-6. *Tribal Seal.* The Land Commission is empowered to have made and provided to the
 515 Division of Land Management the seal of the Oneida Tribe to be used to authenticate documents
 516 which are certified by the staff attorney.

517

518 **67.13. Real Estate Licensing**

519 67.13-1. *General.* Any person engaged in the business of buying, selling, advertising, listing or
 520 leasing tribal property shall be required to hold a Tribal Property License. A license requirement
 521 is established in order to protect the tribe and its members from fraud, dishonesty or
 522 incompetence in the negotiation and transfer of real property.

523 67.13-2. *Who Must Be Licensed.*

524 (a) *Tribal Property Brokers.* A Tribal Property Broker is defined as any person who has
 525 training in all aspects of real property, and acts for another person or the tribe to perform
 526 any of the following real property duties:

527 (1) selling;

528 (2) listing;

529 (3) buying;

530 (4) leasing;

531 (5) renting;

532 (6) exchanging;

533 (7) negotiating any of above activities.

534 (b) *Salespersons.* A Tribal Property Salesperson is defined as any person who assists a
 535 Broker in accomplishing any of the above real property duties, and has been certified to
 536 have received the level of training outlined in this Law.

537 (c) *Apprentices.* Any person desiring to act as an tribal property salesperson shall file
 538 with the Division of Land Management an application for a license. A GED, HSED or
 539 high school diploma is required, except for those who write and pass a preliminary
 540 examination covering general knowledge including reading, writing, arithmetic and
 541 general real estate terminology.

542 67.13-3. *Exceptions.* This Section does not apply to the following:

543 (a) persons who perform real property duties on their own property;

544 (b) receivers, trustees, administrators, executors, guardians or persons appointed by or
 545 acting under the judgment or order of any judicial system;

546 (c) tribal public officers while performing their official duties;

547 (d) banks, savings and loan associations and other designated financial institutions when
 548 transacting business within the scope of their corporate powers as provided by law;

549 (e) any licensed attorney who, incidental to the general practice of law, negotiates loans
 550 secured by real estate mortgages or encumbrances or transfers of real estate;

551 (f) employees, such as janitors, custodians or other employed by the tribe who show
 552 property or accept lease applications as an incidental part of their duties.

553 (g) persons who list, sell, or transfer real property for a cemetery association of a church,
 554 tribal program or other nonprofit organization.

555 67.13-4. *Licensing Procedure*

556 (a) *Education Requirements.* Conference seminars, courses at accredited institutions, and
 557 Oneida Career Center classes will be accepted as proof of the hours of education received
 558 by an applicant.

559 (1) Each applicant for a salesperson's license must submit to the Division of Land
 560 Management, proof of attendance at 45 classroom hours of educational programs

561 dealing with State, Federal and Tribal transfer of Real Property. At least 25
562 classroom hours shall cover Tribal and Federal real property law.

563 (2) Each applicant for a broker's license must submit to the Division of Land
564 Management, proof of attendance at 90 classroom hours of education programs
565 addressing State, Federal and Tribal transfer of Real Property.

566 (b) *Experience Requirements.* Each applicant for a tribal broker's license must submit to
567 the Division of Land Management, proof of at least one year of experience as a real
568 property salesperson, or as a broker in another jurisdiction.

569 (c) *Examination.* The Licensing Examination for tribal brokers and salespeople shall be
570 administered through the Oneida Career Center.

571 (1) Land Commission will create a test which will contain the following materials:

572 (A) 50% Tribal Law

573 (B) 30% Federal Law

574 (C) 20% Wisconsin Law

575 (2) A score of 75% or better on each portion of the examination is required to
576 pass. If an applicant fails any of the three portions of the exam, that applicant will
577 have six opportunities to retake the failed portion within the following six months.
578 If that applicant cannot pass the failed portion within the following six months, he
579 or she must retake the entire exam to qualify for a license.

580 (d) *Fees.* The following fees are applicable to tribal licensees. The Land Commission
581 will establish an equitable fee schedule for the following:

582 (1) issuance of a tribal salesperson or broker license

583 (2) annual renewal fee for a tribal salesperson or broker license

584 (3) late penalty for filing within 30 days of expiration

585 (4) late penalty for filing within year of expiration

586 (5) Test fee

587 (e) *Licensing.* An applicant who has passed the appropriate license examination and has
588 complied with the necessary requirements will be granted a license by the Oneida Land
589 Commission. The license authorizes the licensee to engage in the activities of a tribal real
590 property broker or salesperson as described in this Law. All licenses shall show the name
591 and business address of the licensee.

592 67.13-5. *Rules Of Responsibility*

593 (a) The intent of this section is to establish minimum standards of conduct for real
594 property licensees and to define that conduct which may result in Land Commission action
595 to limit, suspend or revoke the license of a real property broker, salesperson or apprentice,
596 or impose a fine.

597 (b) Violations of rules in this section may demonstrate that the licensee is incompetent, or
598 has engaged in improper, fraudulent or dishonest dealings.

599 (1) A licensee has an obligation to treat all parties to a transaction fairly.

600 (2) In order to comply with Federal and Tribal law, licensees shall not
601 discriminate against, nor deny equal services to, nor be a party to any plan or
602 agreement to discriminate against a person because of sex, race, color, handicap,
603 religion, national origin, sex or marital status of the person maintaining a
604 household, lawful source of income, sexual orientation, age or ancestry.

605 (3) Licensees shall not provide services which the licensee is not competent to
606 provide unless the licensee engages the assistance of one who is competent.

- 607 (4) Licensees shall be knowledgeable regarding laws, public policies and current
608 market conditions on real estate matters and assist, guide and advise the buying
609 and selling public based upon these factors.
- 610 (5) Licensees shall not advertise in a matter which is false, deceptive, or
611 misleading.
- 612 (6) Licensees shall not personally accept any commission, rebate, or profit from
613 any of their real property dealings.
- 614 (7) Licensees shall not engage in activities that constitute the unauthorized
615 practice of law.
- 616 (8) Licensees shall not discourage any person from retaining an attorney.
- 617 (9) Licensees shall not exaggerate, misrepresent or conceal material facts in the
618 practice of real estate.
- 619 (10) Licensees shall not knowingly transmit false information.
- 620 (11) No licensee shall draft or use any document which the licensee knows falsely
621 portrays an interest in real estate.
- 622 (12) Licensee shall not disclose any of the terms of one prospective buyer's offer
623 to purchase to any other prospective buyer.
- 624 (13) Licensee shall not issue checks upon trust accounts which contain insufficient
625 funds.
- 626 (14) Licensees shall notify the Division of Land Management if they are convicted
627 of a crime, except motor vehicle offenses, so that a determination can be made
628 whether the circumstances of the crime are substantially related to the practice of a
629 tribal real property broker or salesperson.
- 630 (15) Licensees shall not render services while the ability of the licensee to
631 competently perform duties is impaired by mental or emotional disorder, drugs or
632 alcohol.
- 633 (16) Licensee shall not enter into overlapping agreements that could be construed
634 as dual agency.

635 **67.13-6. Penalties For Violation Of This Law**

- 636 (a) Fines for minor infractions may be imposed by the Land Commission for any amount
637 up to \$50.00. Minor infractions may include the first three infractions of the above listed
638 offenses, or others as defined by the Land Commission.
- 639 (b) The Land Commission shall provide a fair hearing, as per Oneida Nation
640 Administrative Procedure Act, Section 10. Contested Cases, for any person alleged to
641 have violated this section, before a penalty is ordered.
- 642 (c) Major infractions of this section may lead to an action to limit, suspend or revoke the
643 license of the defendant; disposition of a fine for any amount up to \$500; and/or penalties
644 and judgments authorized by the Oneida Administrative Procedures Act Section 10(e).

645 **67.13-7. Licensing Fee For Non-tribal Brokers.** The Division of Land Management is
646 empowered to develop a licensing fee schedule and collection procedures for all brokers who
647 enter a consensual agreement to sell property to the Oneida tribe and are not licensed by this Law.
648 These fees will be used for maintenance of services and management of Real Property within the
649 authority of this Law.

650

651 **67.14. Real Estate Financing**

652 67.14-1. The goal of tribal loan programs is to maintain and improve the standard of living for
653 tribal members, while protecting and expanding the Tribal Land base.

654 67.14-2. Consistent with available funds, the Division of Land Management shall provide loan
655 programs for the following purposes:

- 656 (a) Financing the purchase or down payment of existing homes and lands,
- 657 (b) Construction of new homes,
- 658 (c) Repair and improvement to existing homes,
- 659 (d) Refinancing existing mortgages,
- 660 (e) Purchasing or refinancing mobile homes,
- 661 (f) Consolidation of Loans, and
- 662 (g) Real Estate Tax Arrearage.

663 67.14-3. *Eligibility Requirements For All Loans:*

- 664 (a) All applicants must be 21 years of age.
- 665 (b) Applicant(s) must be an enrolled member of the Oneida Tribe.
- 666 (c) Financed property must be located within the boundaries of the Oneida Reservation.
- 667 (d) Applicants must have an acceptable credit rating.

668 67.14-4. All loan programs are provided only to tribal members in order to respond to the Oneida
669 Tribe's legislative purpose of expanding and maintaining tribal jurisdiction over all land within
670 the boundaries of the Oneida Reservation, while fulfilling basic membership needs for adequate
671 housing.

672 (a) The applicant for any loan must list one to three Oneida Tribal members who will
673 inherit any interest in Real Property mortgaged by a Tribal loan program, upon death of
674 the applicant.

675 (b) If the spouse of an applicant is a non-tribal member, he/she may continue to pay off
676 the loan, as long as he/she agrees to list three tribal beneficiaries in case of death. Once
677 the loan is satisfied, the designation of beneficiaries to the mortgaged interest in fee
678 property will lapse.

679 (c) If the applicant and non-tribal spouse commence divorce proceedings, the Division of
680 Land Management may

- 681 (1) refinance the enrolled member's loan balance so he/she may secure the entire
682 property,
- 683 (2) provide an offer to purchase the entire property and pay off liens,
- 684 (3) consider some other financial agreement that would assist the tribal applicant
685 in retaining property within the boundaries of the reservation.

686 (d) A non-tribal spouse shall sign an affidavit at the time that a tribal loan is accepted
687 indicating he/she is informed of this regulation and consent to the tribal spouse receiving a
688 mortgage against homestead property, held in fee, with this condition attached.

689 67.14-5. *Foreclosures*

690 (a) *Default.* Any Tribal Loan that is in default for three consecutive months is subject to
691 foreclosure proceedings, provided that a Notice of Arrears, showing the increasing
692 amounts payable to cure the default, has been sent to the loan holder(s) each month by the
693 Loan Officer.

694 (b) *Decision To Foreclose.*

695 (1) After three notices, the Loan Officer will provide the Director of Land
696 Management, and the Loan Committee, all documents and information necessary
697 to determine whether or not foreclosure proceedings should be started.

698 (2) Any recommendation to foreclose will be put on the next Land Commission
699 agenda for concurrence, scheduling of a hearing, and designation of a three-person
700 hearing body.

701 (3) Each member of the three-person hearing body will receive \$150 for being
702 present at the scheduled hearing, reviewing all information presented, and
703 providing a final decision, opinion, order or report based on their deliberations,
704 except for employees of the Oneida Tribe who have permission to be a part of the
705 hearing body as part of their job.

706 (4) The Director of Land Management will make provisions for necessary clerical
707 support for the three-person hearing body.

708 709 **67.15. Tribal Real Estate Taxes**

710 67.15-1. Regulations for the promulgation of a Real Estate Tax Code will be developed by the
711 Division of Land Management by October 1, 1996, in order to provide for increasing costs for
712 services provided to occupants of tribal land, such as environmental services, public roads, fire
713 protection, recycling, garbage pick-up, water and sewer, transportation, traffic control, loans, and
714 management of real property.

715 716 **67.16. Organization**

717 67.16-1. General

718 (a) The Division of Land Management shall administer all transactions that come under
719 this Law.

720 (b) All tribal agencies will process any type of real property acquisition, including
721 donations, through the Division of Land Management.

722 67.16-2. Land Commission

723 (a) *Number of Commissioners.* The Commission shall be comprised of seven (7) elected
724 Tribal members.

725 (b) *Term of Office.* The terms of office for the Commissioners shall be three (3) years.
726 Terms shall be staggered with expiring positions elected every year. The first elected
727 Land Commissioners shall serve according to the following formula, and staggering of
728 terms shall begin thereafter:

729 (1) The three (3) candidates receiving the three highest number votes shall serve
730 an initial term of three (3) years.

731 (2) The two (2) candidates receiving the next two highest number votes shall serve
732 an initial term of two (2) years.

733 (3) The two (2) candidates receiving the next two highest number of votes shall
734 serve an initial term of one (1) year.

735 (4) In the event of a tie vote in the first election, a coin toss shall determine which
736 candidate shall serve the longer term.

737 (c) *Powers and Duties.* The Land Commission shall have the following powers and
738 duties:

739 (1) The Land Commission shall set standards of professional competence and
740 conduct for the professions detailed in this Law, review the examination grades of
741 prospective new practitioners, grant licenses, investigate complaints of alleged
742 unprofessional conduct, and perform other functions assigned to it by law.

743 (2) Hear and decide, as the original hearing body, contested cases that may arise
744 from this Law.

745 (3) Implement and interpret the provisions of this Law.

746 67.16-3. Administration

747 (a) Director of Division of Land Management. The Director shall have the following
748 powers and duties:

- 749 (1) Hire, train, and establish operational and objective commitments for support
750 staff needed to implement this Law.
751 (2) Supervise staff in accordance with Tribal Personnel Policies and Procedures.
752 (3) Provide Declaratory Ruling per procedures in this Law and the Oneida Nation
753 Administrative Procedures Act.
754 (4) Implement all aspects of this Law through the Oneida Tribal Planning and
755 Budgeting Process.

756
757 *End.*

~~758~~
760
761 Adopted - BC-5-29-96-A
762 Amended-BC-3-01-06-D
763 Amended-BC-04-28-10-E
764