

NOTICE OF
PUBLIC MEETING

TO BE HELD
Thursday, OCTOBER 20th at 12:15 p.m.
IN THE
OBC CONFERENCE ROOM
(2nd FLOOR—NORBERT HILL CENTER)

In accordance with the Legislative Procedures Act, the Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal.

**TOPIC: REAL PROPERTY LAW
AMENDMENTS**

This is a proposal to amend an existing Tribal Law which would:

- ◆ Remove hearing body authority from the Oneida Land Commission and transfer to the Judiciary.
- ◆ Update probate process.
- ◆ Add Wisconsin State real estate licensing requirements for persons purchasing property on behalf of the Nation.
- ◆ Provisions related to rental housing opportunities provided by the Nation were drafted into the Landlord-Tenant law.
- ◆ Provisions related to mortgages and foreclosures within the Nation's mortgage programs were drafted into the Mortgage and Foreclosure law.
- ◆ Provisions related to terminating or evicting from the Nation's leasing or rental programs were drafted into the Eviction and Termination law.

To obtain copies of the Public Meeting documents for this proposal, or to learn about the LOC public meeting process, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office.

**PUBLIC COMMENT PERIOD
OPEN UNTIL OCTOBER 27, 2016**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person (Second floor, Norbert Hill Center) or by U.S. mail, interoffice mail, e-mail or fax.

Legislative Reference Office
PO Box 365 Oneida, WI 54155
LOC@oneidation.org
Phone: (920) 869-4376 or (800) 236-2214
Fax: (920) 869-4040



Real Property Law Amendments

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<i>Analysis by the Legislative Reference Office</i>					
Title	Real Property law (amendments)				
Sponsor	David P. Jordan	Drafter	Krystal L. John	Analyst	Maureen Perkins
Requester & Reason for Request	Land Commission While the primary focus of the amendments is to transfer hearing body authority from the land Commission to the Judiciary, the law requires extensive updating to provide greater clarity as to the intent of the law. Additionally, content was pulled from this law and created into other laws.				
Purpose	The purpose of this law is to provide regulations and procedures for the transfer, control and management of the territory within the reservation; to integrate these regulations and procedures with the real property laws and practices of other federal and state sovereigns which may hold jurisdiction within the reservation; and to establish licensing and certification requirements for the Nation's employees dealing with real property transactions.				
Authorized/ Affected Entities	Oneida Land Commission, Division of Land Management, Comprehensive Housing Division, Oneida Judiciary, Oneida Nation Register of Deeds,				
Related Legislation	Mortgage and Foreclosure law, Land Ordinance, Leasing law, Landlord-Tenant law, Eviction and Termination law, Public Use of Tribal Land law, Land Commission Bylaws				
Enforcement & Due Process	All involuntary transfers of title require a Judiciary hearing [see 601.7-6]. The Division of Land Management shall process and administer probate estates and, where necessary, shall refer probate estates to the Oneida Judiciary for formal administration [see 601.8-1]. The Judiciary shall hear and administer disputed probate estates or matters requiring appointment of a guardian ad litem and shall have all the above powers conferred upon the Division of Land Management in such cases [see 601.8-2].				
Public Meeting Status	A public meeting has not been held.				

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Overview

8 The Real Property Law has been redrafted; pulling out content into three separate laws
9 (Landlord-Tenant, Mortgage and Foreclosure, and Eviction and Termination).¹ Additionally,
10 hearing body authority was removed from the Land Commission and transferred to the Judiciary,

¹ It should be noted that the version of this law that is currently effective also includes provisions related to leasing. This detail was pulled out into the Leasing law with the amended version of the Real Property law that was adopted by BC-05-13-15-B and will become effective upon the BIA's approval of our Leasing law. These amendments to the Real Property law incorporate the Leasing law by reference, and upon adoption will replace the version of this law adopted by BC-05-13-15-B.

11 the probate process was updated and Wisconsin State real estate licensing requirements were
12 added for persons purchasing property on behalf of the Nation.

13

14 Provisions were pulled from the current Real Property Law and drafted into the following
15 laws:

- 16 ■ Provisions related to rental housing opportunities provided by the Nation were drafted
17 into the Landlord-Tenant law.
- 18 ■ Provisions related to mortgages and foreclosures within the Nation's mortgage programs
19 were drafted into the Mortgage and Foreclosure law.
- 20 ■ Provisions related to terminating or evicting from the Nation's leasing or rental programs
21 were drafted into the Eviction and Termination law.

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Proposed Amendments

- 24 ■ The amended law clarifies that the Nation's jurisdiction extends to the Reservation
25 boundaries and Tribal trust land outside the Reservation boundaries. The current law
26 states that it governs the land within the Reservation Boundaries and such other lands as
27 may be added within or without said boundary line. *[see 67.1-1 and 1-2]* but the
28 proposed law clarifies that jurisdiction also extends to tribal trust land held outside the
29 Reservation boundaries *[see 601.1-1]*.
- 30 ■ The Rules of Statutory Construction *[see 67.2 of current law]* were removed from the
31 current Real Property law as this provision was intended to guide contested cases; these
32 provisions are not necessary under this amended draft because the Judiciary will hear
33 contested cases – these rules are not typically included in laws.
- 34 ■ The probate section *[see 67.9 of current law]* was reworked and the Division of Land
35 Management and the Oneida Land Commission were given rulemaking authority to
36 jointly develop rules related to probate *[see 601.8]* under the Administrative Rulemaking
37 law.
- 38 ■ Real Estate Trust Accounts section *[see 67.10 of current law]* was removed as these
39 functions are performed through the rules under the Mortgage and Foreclosure law and
40 detail regarding where the funds are kept is not necessary in this law.
- 41 ■ The Leasing law references tribal land only and does not include Tribal fee land *[see*
42 *65.4-1 of current Leasing law]*. The Leasing law is drafted to align with the HEARTH
43 Act (federal legislation) which only applies to tribal land and excludes lands held in trust
44 for individual Indian landowners as well as mineral leases. The amended Real Property
45 law states that all leases, including rental agreements, go through the Leasing law process
46 regardless of whether the lease is on Tribal trust land or Tribal fee land *[see 601.9-1]*.
- 47 ■ General contracts were removed from the records section *[see 601.10]*. There was little
48 guidance under the current law *[see 67.12-2 of current law]* and records that were not
49 useful were recorded. The amended law refocuses the Oneida Register of Deeds to only
50 accept records that affect land titles.
- 51 ■ The real estate licensing section *[see 67.13 of current law]* was amended to remove the
52 Nation's Tribal Property License requirement and instead require a current State of
53 Wisconsin real estate license. Under the amended law, a Wisconsin Real Estate License
54 is required for all persons engaged in the acquisition of Tribal fee land *[see 601.11-1]*.
55 Persons acquiring Tribal fee land on behalf of the Nation are regular employees of the
56 Nation and are not be eligible for a commission *[601.11-1(a)]*. Requiring a State of

57 Wisconsin real estate license places those who purchase land on behalf of the Nation on
58 equal footing with the seller, which is an advantage to the Nation. Also, the Nation's
59 Tribal Property License program lacked oversight, which will now be provided through
60 State licensing. Finally, by requiring a Wisconsin real estate license the Land
61 Commission is removed from enforcement issues.

- 62 ■ Trust Asset and Accounting Management System (TAAMS) certification was added to
63 the real estate licensing and certification section [see 601.11]. The TAAMS system is
64 required by the BIA to track land title documents and land transactions, contracts and
65 leases as well as reporting.
- 66 ■ The Tribal Real Estate Tax section was removed from the current law [see 67.15 of
67 current law] because the Real Estate Tax Code referenced was never developed and is
68 not currently intended to be developed.
- 69 ■ The Land Ordinance is applicable only to valid land assignments existing as of January 1,
70 2016, and is repealed when the last existing land assignment expires. Further, the
71 amendments add that the Tribe may not acknowledge any new land assignments – and in
72 order to be eligible for a Tribal loan issued against an interest in a land assignment, it
73 must first be converted to a residential lease [see 601.2-4(a) and current 67.5-4]. Land
74 assignments are being phased out because the Nation no longer uses land assignments
75 and has moved to residential leases instead.
- 76 ■ The term of office was removed from the Organization section pertaining to the Oneida
77 Land Commission [see 67.16-2 of current law] as this detail appropriately appears in the
78 bylaws of the Land Commission. The amended law only includes the Land
79 Commission's responsibilities that are directly related to this law [see 602.12-3].
- 80 ■ The disposition of estates of deceased Tribal members section of the current law [see
81 67.9] was amended to the probate section [see 601.8].
 - 82 ■ The amended law moves the appointment of a personal representative
83 earlier in the process [see 601.8-1(j)].
- 84 ■ The Oneida Land Commission will no longer have the authority to create the Nation's
85 seal to be used by the Division of Land Management [see 67.12-6 of current law]. The
86 Nation's seal will now be provided by the Tribal Secretary [see 601.10-5].

87 88 **Rulemaking Authority**

89 The following entities have been granted Rulemaking Authority to develop rules under this law:

- 90 ■ The Division of Land Management and the Oneida Land Commission shall jointly
91 develop rules regarding requests for easements for landlocked properties [see 601.7-
92 3(e)].
- 93 ■ The Division of Land Management and the Oneida Land Commission shall further
94 develop rules related to probate [see 601.8-1]. The rules will include timelines to ensure
95 timely probate completion and land consolidation [see 601.7-3(c)(3)].
- 96 ■ The Oneida Land Commission shall develop rules to allocate and assign land uses to all
97 Tribal land, except uses governed by the Public Use of Tribal Land law [see 601.12-
98 2(e)].
- 99 ■ The Oneida Land Commission and the Comprehensive Housing Division shall exercise
100 joint rulemaking authority to provide process requirements, including but not limited to
101 advertising, notice, prequalification, and selection, that apply in all circumstances when
102 the Nation is selling a residential property [see 601.12-1].

- 103 ▪ The Division of Land Management and the Oneida Land Commission shall develop
104 easement and land use license rules *[see 601.12-3(a)]*.
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Title 6. Property and Land – Chapter 601
REAL PROPERTY
Tokáske Kayanláhsla Tsi? Ni?yohuntsya'té
The real/certain laws of the territory of the nation

601.1. Purpose and Policy	601.7. Title Transfer
601.2. Adoption, Amendment, Repeal	601.8. Probate
601.3. Definitions	601.9. Leasing of Real Property
601.4. General Provisions	601.10. Records
601.5. Holding of Ownership	601.11. Real Estate Licensing and Certification
601.6. Legal Descriptions	601.12. Organization

601.1. Purpose and Policy

601.1-1. *Purpose.* The purpose of this law is to provide regulations and procedures for the transfer, control and management of the territory within the reservation; to integrate these regulations and procedures with the real property laws and practices of other federal and state sovereigns which may hold jurisdiction within the reservation; and to establish licensing and certification requirements for the Nation's employees dealing with real property transactions.

601.1-2. *Policy.* It is the policy of the Nation to set out the responsibilities and expectations for persons purchasing and/or managing real property on behalf of the Nation and/or within the reservation and to provide real property holder's rights and responsibilities. In addition, it is the Nation's policy that probated estates shall be settled expeditiously and without undue delay.

601.2. Adoption, Amendment, Repeal

601.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-29-96-A and amended by resolutions BC-3-01-06-D, BC-04-28-10-E, BC-02-25-15-C and BC-05-13-15-B.

601.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

601.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

601.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control, provided that:

- (a) The Land Ordinance is applicable only to valid land assignments existing as of January 1, 2016 and is hereby repealed upon the expiration of the last existing land assignment.

601.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

601.3. Definitions

601.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense, subject to 601.3-5.

(a) "Broker" means a person who acts as an agent and negotiates the sale, purchase or rental of real property on behalf of others for a fee.

(b) "Certified Survey Map" means a map which provides the legal description of real property and is officially filed and approved by the county, Tribal or municipal governments.

- 37 (c) "Easement" means a real property right to cross or otherwise utilize the land of
38 another for a specified purpose.
- 39 (d) "Estate" means a person's interest in real property or other property.
- 40 (e) "Fiduciary" means a person required to act for the benefit of another person on all
41 matters within the scope of their relationship and by such a relationship owes another
42 duties of good faith, trust, confidence and candor. For the purposes of this law, both
43 brokers and salespersons are "fiduciaries."
- 44 (f) "Guardian Ad Litem" means a guardian appointed by the Judiciary on behalf of an
45 incompetent or minor party.
- 46 (g) "Individual Fee Land" means real property held in fee status by an individual or
47 group of individuals.
- 48 (h) "Individual Trust Land" means individual Tribal land held in trust by the United
49 States of America for the benefit of a Tribal member.
- 50 (i) "Judiciary" means the judicial system that was established by Oneida General Tribal
51 Council resolution GTC-01-07-13-B to administer the judicial authorities and
52 responsibilities of the Nation.
- 53 (j) "Land Use License" means an agreement entered into by the Nation providing a party
54 the right to occupy and/or utilize a specified piece of Tribal land for a specific purpose
55 and a specific duration, which may require the Nation to be compensated for such use.
- 56 (k) "Leasehold Mortgage" means a mortgage, deed of trust, or other instrument that
57 pledges a lessee's leasehold interest as security for a debt or other obligation owed by the
58 lessee to a lender or other mortgagee.
- 59 (l) "Nation" means the Oneida Nation.
- 60 (m) "Personal Representative" means a person to whom authority to administer a
61 decedent's estate have been granted by the Division of Land Management or the
62 Judiciary.
- 63 (n) "Probate" or "Administration" means any proceeding relating to a decedent's estate,
64 whether there is or is not a will.
- 65 (o) "Real Property" means land and anything growing on, attached to, or erected on the
66 land, excluding anything that may be severed without injury to the land.
- 67 (p) "Reservation" means all the property within the exterior boundaries of the
68 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida
69 7 Stat. 566, and any lands added thereto pursuant to federal law.
- 70 (q) "Restricted Fee Status" means an interest in real property which includes a provision
71 in the deed or will that, upon the happening or failure to happen of a certain event, the
72 title of the purchaser or devisee will be limited, enlarged, changed or terminated.
- 73 (r) "Rule" means a set of requirements, including fee schedules, enacted by the
74 Comprehensive Housing Division, Division of Land Management and/or the Oneida
75 Land Commission in accordance with the Administrative Rulemaking law based on
76 authority delegated in this law in order to implement, interpret and/or enforce this law.
- 77 (s) "TAAMS" (Trust Asset and Accounting Management System) means the Bureau of
78 Indian Affairs system for maintaining and tracking land title documents and all legal
79 documents relating to land transactions.
- 80 (t) "Title Status Report" means a report issued by the Bureau of Indian Affairs after a
81 title examination which shows the proper legal description of a tract of Tribal land;
82 current ownership, including any applicable conditions, exceptions, restrictions or
83 encumbrances on records; and whether the land is in unrestricted, restricted, trust, or

84 other status as indicated by the records in a Land Titles and Records Office. (v) “Tribal
85 Fee Land” means Tribal land held in fee status by the Nation within the reservation.
86 (w) “Tribal Land” means Tribal fee land and Tribal trust land.
87 (x) “Tribal Member” means an individual who is an enrolled member of the Nation.
88 (y) “Tribal Trust Land” means the surface estate of land or any interest therein held by
89 the United States in trust for the Nation; land held by the Nation subject to federal
90 restrictions against alienation or encumbrance; land reserved for federal purposes; and/or
91 land held by the United States in trust for the Nation under Section 17 of the Indian
92 Reorganization Act, 25 U.S.C §477, et. seq.
93
94

95 **601.4. General Provisions**

96 601.4-1. *Applicable Real Property.* The provisions of this law extend to all Tribal land, Tribal
97 member’s individual fee land, and individual trust land within the reservation boundaries and all
98 Tribal trust land.

99 601.4-2. *Tribal Land Base.* Any transaction which adds real property to the Tribal land base
100 must be administered through the Division of Land Management under the provisions of this
101 law.

102 601.4-3. *Sale of Tribal Land Prohibited.* The sale of Tribal land is specifically prohibited by
103 this law, unless the intent of the transaction is the consolidation or partition of Tribal trust land
104 and/or individual trust land.

105 601.4-4. *New Land Assignments Prohibited.* The Nation may not acknowledge any new land
106 assignments. Further, in order to be eligible for a Tribal loan issued against a real property
107 interest held as a land assignment, the land assignment must first be converted to a residential
108 lease.

109 601.4-5 *Wisconsin Probate Code and its Related Chapters.* In instances where the Nation
110 lacks definition, procedure, or legal precedent in a probate matter, the Nation shall use
111 Wisconsin’s Probate Code and its related chapters for guidance.

112 601.4-6. *Wisconsin Real Property Law.* The Nation shall follow all applicable portions of the
113 Wisconsin Real Property Law when acquiring individual fee land.

114 601.4-7. *No Waiver of Sovereign Immunity.* Nothing in this law may be construed as a waiver
115 of the Nation’s sovereign immunity.
116

117 **601.5. Holding of Ownership**

118 601.5-1. Interests in real property by more than one (1) person may be held in the following
119 ways:

120 (a) *Joint Tenancy with the Right of Survivorship.* Pursuant to this ownership mechanism
121 each owner has an equal, undivided interest in the real property. When an owner dies,
122 his/her share is divided among the remaining owners; the last living owner owns the
123 entire property.

124 (1) Real property owned by married persons is held under this mechanism unless
125 they have executed a valid marital property agreement specifically stating that the
126 real property in question is held as tenants in common.

127 (b) *Tenancy in Common.* Pursuant to this ownership mechanism each owner has a
128 percentage of divided interest in the real property. When an owner dies, his/her interest
129 is divided among his/her devisees or heirs.

130 (1) Real property owned by more than one (1) person is owned under this
131 mechanism unless a deed, transfer document specifically states the real property is
132 held as joint tenants with rights of survivorship.
133

134 **601.6. Legal Descriptions**

135 601.6-1. The legal description for any real property transferred under this law must be derived
136 from a certified survey map or survey completed by a registered land surveyor according to
137 currently accepted minimum standards for property surveys. If the plat of survey changes the
138 legal description of the certified survey map for the same piece of property, the certified survey
139 map's legal description will be used on transfer documents along with the survey description,
140 which must be designated as "Also Known As ..." Section, township, range and fourth principal
141 meridian shall be included in all legal descriptions.

142 601.6-2. Every land survey must be made in accordance with the county register of deeds'
143 records for fee land, and in accordance with the Oneida Nation Register of Deed's records for
144 Tribal Trust Lands and Individual Trust Lands. The surveyor shall acquire data necessary to
145 retrace record title boundaries such as deeds, maps, certificates of title, title status reports, Tribal
146 leases, Tribal home purchase agreements, center line and other boundary line locations.

147 601.6-3. Legal descriptions defining land boundaries must be complete providing unequivocal
148 identification of line or boundaries.

149 601.6-4. All surveys prepared for the Nation must comply with survey requirements outlined in
150 the Wisconsin Administrative Code, Chapter A-E7 and indicate setbacks, building locations and
151 encroachments, as applicable.

152 601.6-5. Legal descriptions must be used on transfer documents formalizing a purchase, real
153 estate sale, lease, foreclosure, probate transfer, trust acquisition and Tribal resolutions.

154 601.6-6. When real estate is listed for sale or lease to Tribal members, the address is adequate
155 legal description of the real property.
156

157 **601.7. Title Transfer**

158 601.7-1. *Trust Acquisition.* The Division of Land Management shall use title companies duly
159 registered with the Department of Interior and approved by the Division of Land Management to
160 update abstracts or provide title insurance on real property scheduled for trust acquisition.

161 (a) Title companies shall follow general guidelines provided by the federal government
162 in terms of form, content, period of search, destroyed or lost records and abstractor's
163 certificate.

164 (b) When researching land title for real property within the reservation which is being
165 considered for trust acquisition, the Division of Land Management staff shall request the
166 title company to search the title back to the original allottee, in order to assure that
167 patents or Indian deeds were legally issued.

168 (c) Any valid liens or encumbrances shown by the commitment for title insurance shall
169 be eliminated before the title is transferred into trust.

170 (d) After land is in trust both a title search of county records and a title status report
171 requested by the Division of Land Management from the Bureau of Indian Affairs shall
172 verify all valid encumbrances, if any, on the title. For the purposes of this section, a valid
173 encumbrance is one that has been preapproved, in writing, by the Division of Land
174 Management based on a standard operating procedure that is effective upon approval by
175 the Oneida Land Commission.

176 (e) Division of Land Management applications to convert Tribal fee land into Tribal trust
177 land require an Oneida Land Commission resolution approving the said conversion.

178 601.7-2. *Deeds.* A deed is the formal document used by the Division of Land Management to
179 transfer title from one party to another.

180 (a) A valid deed shall:

181 (1) Be in writing;

182 (2) Identify the grantor (seller) and grantee (buyer);

183 (3) Provide the legal description of the real property;

184 (4) Identify the interest conveyed, as well as any conditions, reservations,
185 exceptions, or rights of way attached to the interest;

186 (5) Be signed by or on behalf of each of the grantors (sellers);

187 (6) Be signed by or on behalf of each spouse of each of the grantors (sellers), if
188 applicable; and

189 (7) Be delivered to the grantee (buyer).

190 (b) In addition to the requirements listed in section 601.7-3(a), a deed prepared for trust
191 acquisition shall include:

192 (1) The federal authority for trust acquisition;

193 (2) Any exceptions or exclusions from the State of Wisconsin's fees or other
194 transfer requirements;

195 (3) The approximate acreage of the real property being transferred to trust; and

196 (4) The authority and signature of the appropriate Department of Interior official
197 who accepts the real property into trust.

198 (c) A deed transferring fee simple title must be recorded in the appropriate register of
199 deeds office, provided that, once the real property is in trust, the title must be recorded
200 with the Oneida Nation Register of Deeds and the Bureau of Indian Affairs Land Titles
201 and Records Office.

202 601.7-3. *Involuntary Transfer of Title.* All involuntary transfers of title require a hearing and
203 order from the Judiciary, and may occur in the following ways:

204 (a) Eminent Domain. Eminent domain is the right of the Nation's government to acquire
205 private land for public uses without the consent of private owners.

206 (1) For the purposes of this section, public uses include, but are not limited to,
207 environmental protection, streets, highways, sanitary sewers, public utility/sites,
208 waste treatment facilities and public housing.

209 (2) Prior to exercising eminent domain, the Nation must first attempt to negotiate
210 an agreeable taking by making an offer to purchase based on an appraisal of the
211 real property. The appraisal amount may be based on an appraisal provided by
212 the Nation. In the event the property owner objects to the Nation's appraisal, they
213 may obtain an independent appraisal at their own cost. For the purposes of this
214 section, an appraisal means process for estimating a piece of real property's value.

215 (3) The Nation's exercise of eminent domain may be appealed to the Judiciary.

216 (b) Foreclosure. Foreclosures may occur subject to the Mortgage and Foreclosure law
217 when a Tribal member ceases payment on a leasehold mortgage.

218 (c) Tribal Land Consolidation. Section 207 of the Indian Land Consolidation Act
219 (Pub.L. No. 97-459, 96 Stat. 2515, and amended on October 30, 1984 by Pub.L. No. 98-
220 608, 98 Stat. 3171) is incorporated into this law, which provides a mechanism for real
221 property within the reservation to escheat, or pass, to the Nation.

222 (1) Pursuant to section 207 of the Indian Land Consolidation Act, an ownership
223 interest in real property escheats, or passes, to the Nation under the following
224 circumstances, provided that the Nation shall provide just compensation for the
225 interest:

226 (A) The real property is within the reservation boundaries;

227 (B) The decedent's ownership in the given parcel of land is two percent
228 (2%) or less of the total acreage; and

229 (C) The interest is incapable of earning one hundred dollars (\$100.00) in
230 any one (1) of the five (5) years immediately following the decedent's
231 death.

232 (2) A decedent's heirs may appeal a land consolidation under this section to the
233 Judiciary.

234 (3) Land consolidation is subject to the probate requirements, as included in this
235 law and accompanying rules.

236 (d) Transferring Interests Inherited by Non-Tribal Members. If the owner of an interest
237 of real property which is held in trust or restricted fee status located within the
238 reservation devises such interest to a non-Tribal member, the Nation may acquire the said
239 interest by paying the fair market value of the interest determined as of the date of the
240 decedent's death. Such transfer is effective upon receipt of an order transferring inherited
241 interests from the Judiciary pursuant to section 205 of the Indian Land Consolidation Act.

242 (1) An order transferring inherited interests may not be granted if:

243 (A) While the decedent's estate is pending, the non-Indian devisee
244 denounces his or her interest in favor of a Tribal member person;

245 (B) The interest is part of a family farm that is devised to a member of the
246 immediate family of the decedent, provided that such a restriction must be
247 recorded as part of the deed relating to the interest involved; or

248 (C) The devisee agrees in writing that the Nation may acquire the interest
249 for fair market value only if the interest is offered for sale to a person or
250 entity that is not a member of the immediate family of the owner of the
251 interest.

252 (e) Easements for Landlocked Properties. The Division of Land Management and the
253 Oneida Land Commission shall jointly develop rules regarding requests for easements for
254 landlocked properties.

255 601.7-4. Division of Land Management shall work with the Oneida Law Office in order to
256 pursue an involuntary transfer of title.
257

258 **601.8. Probate**

259 601.8-1. The Division of Land Management shall process and administer probate estates and,
260 where necessary, shall refer probate estates to the Oneida Judiciary for formal administration.
261 The Division of Land Management and the Oneida Land Commission shall jointly create any
262 rules necessary to administer probate estates. The Division of Land Management shall:

263 (a) Process applications for probate administration;

264 (b) Receive proof of heirship demonstrating a party is entitled to receive an intestate
265 decedent's property pursuant to applicable laws and rules;

266 (c) Receive consent to serve forms and in undisputed matters, issue domiciliary letters;

267 (d) Require and receive affidavits of service;

- 268 (e) Receive waiver and consent to probate administration forms and any related
269 affidavits;
270 (f) Issue notice to creditors of the probate's administration, receive creditor claims for
271 consideration and settlement, and issue discharge of creditors when appropriate;
272 (g) Receive and process all estate inventories;
273 (h) Receive and process, when possible, land transactions in accordance with this law and
274 receive proof of recording documents;
275 (i) Receive estate receipts;
276 (j) In undisputed matters, receive and process statement of personal representative to
277 close estate and issue discharge of personal representative; and
278 (k) Refer disputed matters to the Judiciary, transfer probate and related documents, and
279 participate in the Judiciary's proceedings as necessary.

280 601.8-2. The Judiciary shall hear and administer disputed probate estates or matters requiring
281 appointment of a guardian ad litem and shall have all the above powers conferred upon the
282 Division of Land Management in such cases. In addition, the Judiciary shall hear and administer
283 probate estates in which the Division of Land Management seeks appointment as a personal
284 representative.

285

286 **601.9. Leasing of Real Property**

287 601.9-1. The Comprehensive Housing Division shall administer and process all leasing of
288 Tribal land for residential purposes. The Division of Land Management shall administer and
289 process all leasing of Tribal land for agricultural and commercial purposes.

290 (a) For the purposes of this law, leasing refers to all leases made pursuant to the Leasing
291 law and all rental agreements made pursuant to the Landlord-Tenant law.

292 (b) The Leasing law definition of Tribal land does not include Tribal fee land, however
293 pursuant to this law, leases of Tribal fee land lasting longer than one (1) year that are not
294 made as part of the homeownership program which uses federal funding must be
295 administered and processed using the Leasing law.

296

297 **601.10. Records**

298 601.10-1. *Purpose.* The Division of Land Management shall oversee the administration of the
299 Oneida Nation Register of Deeds which shall accept and record documents related to real
300 property located within the reservation.

301 601.10-2. *Types of Records.* The Oneida Nation Register of Deeds may only accept documents
302 that provide evidence of activities affecting real property title, preserve the record of a title
303 document and give constructive notice of changes to a title document. Further, said documents
304 must be originals, signed duplicates or certified copies. The following documents may be
305 accepted by the Oneida Nation Register of Deeds.

- 306 (a) Deeds;
307 (b) Probate orders;
308 (c) Mortgages and other valid liens;
309 (d) Easements, covenants, and restrictions;
310 (e) Certified survey maps and plats of survey;
311 (f) Patents;
312 (g) Declarations of involuntary transfer or taking;
313 (h) Satisfactions;
314 (i) Leases made pursuant to the Leasing law;

- 315 (j) Home ownership agreements made pursuant to the Landlord-Tenant law;
- 316 (k) Marriage agreements; and
- 317 (l) Correction of title defects.

318 601.10-3. *Accessibility*. The Oneida Nation Register of Deeds shall provide open access to land
319 records and title documents.

320 601.10-4. *Trust Land*. All documents pertaining to Tribal trust land and Individual trust land
321 shall be recorded with the Oneida Nation Register of Deeds and the Bureau of Indian Affairs
322 Land Titles and Records Office.

323 601.10-5. *Tribal Seal*. The Nation's Secretary shall provide the Division of Land Management
324 with the Nation's seal to be used to authenticate documents which are certified by the Oneida
325 Nation Register of Deeds.

326

327 **601.11. Real Estate Licensing and Certification**

328 601.11-1. *Wisconsin Real Estate License Required*. All persons engaging in the acquisition of
329 Tribal fee land on behalf of the Nation shall have and maintain a valid Wisconsin real estate
330 license.

331 (a) While Wisconsin real estate law allows brokers to earn a commission based on real
332 property transactions, persons acquiring Tribal fee land on behalf of the Nation are
333 regular employees of the Nation and, therefore, shall waive any commission for which
334 they might otherwise be eligible.

335 (b) All persons engaging in the acquisition of Tribal land shall comply with the
336 requirements and conduct standards applicable to the maintenance of a Wisconsin real
337 estate license.

338 601.11-2. *TAAMS Certification Required*. All persons responsible for encoding leasing
339 information shall obtain a TAAMS certification, which includes, but is not limited to, the
340 following positions:

- 341 (a) Residential and Commercial Leasing Specialists;
- 342 (b) Land Title and Trust Manager; and
- 343 (c) Title Examiner.

344 601.11-3. *Fiduciary Responsibility*. All persons engaged in the buying or selling of Tribal land
345 shall, at all times, act as a fiduciary to the Nation. Further, all such persons shall comply with all
346 applicable Tribal and federal laws.

347

348 **601.12. Organization**

349 601.12-1. *Comprehensive Housing Division*. The Comprehensive Housing Division shall
350 oversee all residential transactions within the reservation and shall process and administer said
351 transactions using the applicable of the Landlord-Tenant law, the Mortgage and Foreclosure law
352 and/or the Eviction and Termination law. In addition, the Oneida Land Commission and the
353 Comprehensive Housing Division shall exercise joint rulemaking authority to provide process
354 requirements, including but not limited to advertising, notice, prequalification, and selection, that
355 apply in all circumstances when the Nation is selling a residential property.

356 601.12-2. *Oneida Land Commission*. The Oneida Land Commission is comprised of seven (7)
357 elected Tribal members and shall:

- 358 (a) Interpret the provisions of this law and create policy to guide the Division of Land
359 Management in implementing the same;
- 360 (b) Approve or deny all easements and land use licenses;

- 361 (c) Review and adopt the Division of Land Management’s standard operating procedures
362 for entering into agriculture and commercial leases pursuant to the Leasing law;
363 (d) Approve or deny all acquisition of Tribal land;
364 (e) Allocate and assign land uses to all Tribal land, except those uses governed by the
365 Public Use of Tribal Land law, based on rules which the Oneida Land Commission shall
366 develop; and
367 (f) Name all buildings, roads, parks and the like on Tribal land.
- 368 601.12-3. *Division of Land Management.* The Division of Land Management shall implement
369 this law in accordance with the policy directives provided by the Oneida Land Commission. The
370 Division of Land Management shall:
- 371 (a) Forward requests for easements and land use licenses to the Oneida Land
372 Commission based on the easement and land use license rules jointly developed by the
373 Division of Land Management and the Oneida Land Commission;
374 (b) Administer and oversee the Oneida Nation Register of Deeds;
375 (c) Enter into and administer agricultural and commercial leases pursuant to the Leasing
376 law and the Eviction and Termination law and any corresponding rules;
377 (d) Prepare title reports and process trust transactions; and
378 (e) Process land acquisition transactions as approved by the Oneida Land Commission.

379
380 *End.*

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384 Adopted - BC-5-29-96-A
385 Amended-BC-3-01-06-D
386 Amended-BC-04-28-10-E
387 Amended – BC-02-25-15-C
388 Amended-BC-05-13-15-B