

Chapter 6. Lease Inheritance

Codification Note: This repeals and replaces WOS 2000-07

8.601 SHORT STATUTE

This Statute may be cited as the “Lease Inheritance Statute,” and it repeals and replaces any prior Statute or Regulation in conflict with this Statute including WOS 2000-07, Lease Inheritance Statute.

(Source: WOS 2018-006, May 5, 2018, Section I)

8.602 PURPOSE

The purpose of this Statute is to set forth general provisions for Inheritance of Leases and Leasehold Estates. The Little Traverse Bay Bands of Odawa Indians, coordinated through its Housing Department, intends to enter into residential leases with Tribal Citizens under the provisions of 25 CFR part 162 or the Leasing of Trust Lands Statute, whichever is applicable.

(Source: WOS 2018-006, May 5, 2018, Section II)

8.603 DEFINITIONS

- A.** "Lease" means a ground lease or other agreement for use of Trust Land or land owned by the Tribe.
- B.** "Lessee" means any person who occupies Trust land or Restricted Land, as Tenant under a Leasehold Estate with the Lessor.
- C.** "Leasehold Estate" means a leasehold estate established pursuant to a Lease between the Tribe, as Lessor and a Citizen of the Tribe as Tenant.
- D.** "Lessor" means the Tribe or a Tribal Citizen who leases an interest in property.
- E.** "LTBB" or "Tribe" means the Little Traverse Bay Bands of Odawa Indians.

F. "Reservation" means all lands within the boundaries of the reservations for Little Traverse as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse reservation by the Department of the Interior.

G. "Tribal Court" means the Little Traverse Bay Bands of Odawa Indians Tribal Court.

H. "Tribal Citizen" means any person enrolled with the Tribe.

I. "Trust Land" means land within the jurisdiction of the LTBB Tribe, title to which is held by the United States Secretary of Interior for the benefit of the Tribe or an individual member of the Tribe.

(Source: WOS 2018-006, May 5, 2018, Section III)

8.604 JURISDICTION

Tribal Court of The Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) shall have exclusive jurisdiction over all actions arising on all lands located within the exterior boundaries of the LTBB Reservation on trust lands, lands owned in fee by the Tribe, and any other property leased by LTBB.

(Source: WOS 2018-006, May 5, 2018, Section IV)

8.605 INHERITANCE BY WRITTEN WILL or INTESTATE

A. Written Will. A Tribal Citizen/lessee may, by written will, leave the remaining term of his/her residential lease to a spouse; or his or her children; or a Tribal Citizen.

1. The spouse who inherit the remaining term of the lease must actually have resided on the leased premises as a primary residence at the time of lessee's death and shall continue to reside on the leased premises as the primary residence or the lease will terminate.

2. The Tribal Citizen/lessee's children must resided on the leased premises as their primary residence and continue to reside, whether they did so or not at the time of lessee's death or the lease will terminate.

3. A Tribal Citizen/lessee may by written will leave the remaining term of his/her residential lease to a Tribal Citizen.

B. Intestate. If a Tribal Citizen/lessee dies without a will, the following shall apply to the remaining term of his/her residential lease:

1. The remainder of the lease shall go to the spouse, provided that the spouse must actually have resided on the leased premises as a primary residence at the time of lessee's death and shall continue to reside on the leased premises as the primary residence or the lease will terminate.

2. If there is not a surviving spouse, the Tribal Citizen/lessee's children may inherit the remainder of the lease, provided that the children resided on the leased premises as their primary residence at the time of lessee's death and continue to reside on the leased premises as their primary residence or the lease will terminate.

C. These provisions do not apply to month-to-month leases or leases that have a term of less than one (1) year.

(Source: WOS 2018-006, May 5, 2018, Section V)

8.606 EARLY TERMINATION OF LEASES

If a Tribal Citizen/lessee dies during the term of his/her lease, and the lease is not continued under Section V. of this Statute, the lease shall terminate upon such death and all interest in the leased tract shall revert to the Tribe.

(Source: WOS 2018-006, May 5, 2018, Section VI)

8.607 DUTIES OF HOUSING DEPARTMENT

The LTBB Housing Department shall develop forms consistent with this Statute which it shall provide to potential lessees.

(Source: WOS 2018-006, May 5, 2018, Section VII)

8.608 SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2018-006, May 5, 2018, Section VIII)

8.609 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2018-006, May 5, 2018, Section IX)

8.610 OTHER RELATED STATUTES

See Mortgage Lending Statute, WOS 2014-017 Leasing of Trust Lands Statute, WOS 1998009 Housing Commission, WOS 2006-020 Probate Code, or as may be amended.

(Source: WOS 2000-07, June 4, 2000, Section VII)

(Source: WOS 2018-006, May 5, 2018, Section X)