

HB 405\B

B.1 provides exemptions for ANCSA Corporation Settlement Trusts. Initially written into ANCSA in 1971, but not implemented widely until following the 2017 Tax Cuts and Jobs Act, ANC Settlement Trusts are designed for Alaska Native Corporations to fulfill a social obligation, entirely separate from their fiduciary responsibilities to their shareholders. ANC Settlements Trusts may have hundreds or thousands of beneficiaries, and they are regulated by the federal government.

No additional regulation or disclosure should be required for these trusts, particularly because of both their social mission and their relative novelty. Not all Alaska Native Corporations have yet had the chance to capitalize their settlement trusts, and now is not the right time to put up additional state barriers to that process.

B.2 restructures reporting as an annual requirement. After the initial establishment of a trust, if no changes are made, no reporting is required. However, the bill does require disclosure to state regulators when changes to the legal structure of the trust are made, or when new individuals or entities are added or removed from the list of trustees, beneficiaries, protectors, or other similar roles.

Feedback from industry professionals suggested that the simple act of adding a new beneficiary to an existing trust could result in fines and legal issues for the trust itself. This amendment resolves this concern by requiring all disclosures on a predictable, annual basis. Any changes made to the trust structure in a given calendar year must be reported by January 30 of the following year.

B.3 provides exemptions for charitable trusts. The committee heard testimony from members of the public urging exemptions for charitable trusts. This amendment follows that suggestion by using the IRS definition for charitable trust to create a broad category for exemption.

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B.3 re-writes Section 1. Drafted with language suggested by the trust industry, this amendment was designed to resolve concerns about trust ‘validity,’ and focus instead on certain prohibited activities by individuals. It prohibits people on the OFAC from accepting positions within a trust structure. It also prohibits distributions from a trust to any individuals on the OFAC sanctions list.

B.4 re-writes Section 2 about the Recorder’s office. Instead it requires a new disclosure process for real estate transactions. This change will bring the bill in line with national anti-money-laundering efforts. It follows the model of the geographic targeting orders (GTO) at FinCen that require this disclosure in 22 high-value real estate markets nation-wide. In committee, we heard testimony that Alaska is among the top 5 highest localities where money laundering is happening in the real estate sector that are not currently covered under these federal reporting regs.

Amendment B.4 is specific to high-risk transactions; like the GTOs, its disclosure requirements only kick in in the event of all-cash transactions, or sales financed by non-U.S. banks. National Association of Realtors has advocated in DC for the GTO model to go nation-wide, and it is likely we see this as national policy soon. Enacting this bill this year could position Alaska as a leader in the fight against money laundering and corruption – and even more importantly, open up more housing and lands for Alaskan residents to purchase and call home.