

**PROPOSED LEGISLATION, ARTICLES OF INCORPORATION
ALASKA CORPORATIONS CODE AS 10.06.504(d)**

INTRODUCTION

The Aleut Corporation (TAC) is an Alaska Native Regional Corporation incorporated in 1972 and organized under 43 U.S.C. 1601 et seq. as amended (Alaska Native Claims Settlement Act or "ANCSA"). With business holdings in the federal, commercial, IT, engineering, environmental, fuel, and manufacturing sectors, TAC works to maximize economic growth, protect and enhance its lands, and promote healthy communities with decisions inspired by Aleut values.

BACKGROUND

The Alaska Corporations Code, adopted in 1989, requires corporations existing before July 1, 1989 (which includes all ANCSA corporations) to obtain an affirmative vote of at least two-thirds of the shares entitled to vote for the adoption of an amendment to the articles of incorporation:

AS 10.06.504(d)

(d) The requirement of an affirmative vote of at least two-thirds of the shares entitled to vote for the adoption of an amendment to the articles of incorporation as provided in former AS 10.05.276 shall remain in force for corporations existing before July 1, 1989.

By contrast, corporations formed after July 1, 1989, including any newly formed corporation in the State of Alaska, generally require only a simple majority vote of all outstanding shares for articles amendments. See AS 10.06.504(a)(2).

The existing language of AS 10.06.504(d) effectively handicaps ANCSA corporations from making amendments to their Articles of Incorporation, unless an exception applies. TAC, like other ANCSA corporations, typically only receives shareholder meeting quorums in the upper 50% or lower 60% of the total outstanding shares eligible to vote. As the years go on and shares become distributed across larger numbers of individual descendants of original shareholders, quorum counts are expected to continue to decrease.

ANCSA and Alaska law already recognize this phenomenon by providing reduced voting thresholds for ANCSA corporations for certain specified matters. Reduced voting thresholds apply to creation of a Settlement Trust or amending the Articles of Incorporation to issue new shares of Settlement Common Stock to descendants of original shareholders (*see* 43 USC 1629b), along with amendments to the Articles of Incorporation to provide for classification of seats on the Board of Directors (*see* AS 10.06.960(o)). There is no general catch-all allowing Alaska Native Corporations to amend the Articles of Incorporation for matters outside these narrow one-off exceptions.

Thus, AS 10.06.504 sets up a discriminatory, two-tier regime, in which Alaska Native Corporations are subjected to an effectively impossible heightened 2/3 voting standard, and are effectively prevented from general amendments to their Articles of Incorporation. Other, newly-formed corporations, are provided a more realistic 50% voting standard. Our research reflects that the 50% standard is the modern norm across most states.

Based on research of various states' corporations codes, and the history and significance of ANCSA, TAC believes the current law is antiquated, and leaves TAC and other Alaska Native corporations established under ANCSA at a competitive disadvantage compared with newer corporations.

PROPOSED LEGISLATION

TAC requests your support and assistance to introduce new legislation to address the inequity in Alaska's law regarding amending articles of incorporation. TAC proposes the following legislation:

AS 10.06.504(d) is hereby amended to state as follows:

(d) The requirement of an affirmative vote of at least two-thirds of the shares entitled to vote for the adoption of an amendment to the articles of incorporation as provided in former AS 10.05.276 shall remain in force for corporations existing before July 1, 1989, except that this subsection (d) shall not apply to a corporation organized under 43 U.S.C. 1601 et seq. as amended (Alaska Native Claims Settlement Act), regardless of when that corporation was incorporated.

CONCLUSION

By amending AS 10.06.504(d) to revise an outdated and imbalanced law, the Alaska legislature can help Alaska Native corporations achieve more equitable standing among corporations.

For questions, please contact:

Robert Misulich
General Counsel
The Aleut Corporation
rmisulich@aleutcorp.com
907-267-9201

Myer Hutchinson
myer@mhcalaska.com
907-957-8384