

Original sponsor: Rules Committee by
request of the Governor

Offered: 4/21/72
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 731

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act implementing the Alaska Native Claims
7 Settlement Act; and providing for an effective
8 date."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. PURPOSE. It is the purpose of this Act to implement the
11 Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) by amending
12 state law to resolve those ambiguities, conflicts and problems directly or
13 impliedly created by the enactment by Congress of the Alaska Native Claims
14 Settlement Act. It is also the purpose of this Act to complement, through
15 state policy, in a reasonable and fair manner, the federal policy expressed
16 in that Act.

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* Sec. 2. AS 13.30 is amended by adding a new section to read:

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Sec. 13.30.115. INHERITANCE OF CERTAIN STOCK. (a) Until

19

December 18, 1991, stock in a corporation organized under the laws of
20 Alaska pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203;
21 85 Stat. 688) which is inalienable under that Act is not subject to
22 probate. Upon the death of the holder, if the stock does not pass by
23 the testamentary disposition clause on the stock certificate, properly
24 executed, it passes by will or intestate succession. In such a case,
25 the determination of the person entitled to the stock shall be made by
26 the appropriate regional corporation on the basis of an affidavit,
27 furnished to it and to the corporation which issued the stock, showing
28 the right of the person entitled to the stock to receive it and to
29 have a new certificate issued to him. The affidavit, accepted in good

1 faith by a corporation has the same effect as an affidavit under sec. 4
2 of this chapter, and the person entitled to the stock, if the affidavit
3 is not accepted, has the remedy set out in sec. 5 of this chapter. In
4 case of dispute as to the person entitled to receive the stock, a
5 person claiming ownership may bring an independent action in the
6 superior court.

7 (b) Each certificate representing stock in a corporation organ-
8 ized pursuant to the Alaska Native Claims Settlement Act shall bear
9 provisions, on its reverse side, containing blanks to be filled in by
10 the owner, constituting a last will and testament for the purposes of
11 this section and sec. 7(h)(2) of the Alaska Native Claims Settlement
12 Act insofar as the shares represented by that certificate are concerned
13 during the period of its inalienability. The clause must be signed
14 by the owner, dated and notarized. This testamentary disposition may
15 be changed from time to time or revoked, and it governs unless there
16 is a subsequently executed formal will making the specific disposition
17 of the stock.

18 (c) When ownership of shares passes by devise or inheritance or
19 as a result of court action, the shares shall be partitioned, insofar
20 as practicable, in whole shares among those entitled to them.

21 (d) If a deceased shareholder has failed to dispose of his stock
22 by will and has no heirs under the applicable laws of intestacy, his
23 shares escheat to the corporation.

24 (e) The situs of inalienable stock of all corporations organized
25 under the Alaska Native Claims Settlement Act is Alaska, until December
26 18, 1991.

27 (f) Where appropriate, terms used in this section have the
28 meanings set out in AS 13.45.020(a). In this section "stock" includes
29 membership in a corporation organized under AS 10.20 and inchoate rights

1 to stock.

2 * Sec. 3. AS 22.10.020 is amended by adding a new subsection to read:

3 (d) The superior court, in an action for divorce, separation,
4 or child support, affecting inalienable stock in a corporation organ-
5 ized under the federal Alaska Native Claims Settlement Act (P.L. 92-
6 203; 85 Stat. 688), may order the stock transferred to the spouse, a
7 child, or a guardian or custodian for a child, but may not order it sold
8 on the open market or transferred to other persons.

9 * Sec. 4. AS 38.15 is amended by adding new sections to read:

10 ARTICLE 2. MANAGEMENT CONTRACTS AND
11 LAND EXCHANGES; P.L. 92-203 CORPORATIONS.

12 Sec. 38.15.050. CONTRACTS BETWEEN DEPARTMENT OF NATURAL RESOURCES
13 AND P.L. 92-203 CORPORATIONS. A corporation organized under Alaska
14 law pursuant to the federal Alaska Native Claims Settlement Act
15 (P.L. 92-203; 85 Stat. 688) may contract with the state Department of
16 Natural Resources for the management of land; however, no sale, lease,
17 exchange or other disposal of this land may be made without the
18 approval of the corporation owning it. The contract is terminable
19 upon reasonable notice by either party to it; it may cover all or a
20 portion of the land of the corporation, and shall provide for the terms
21 of management by reference to law or regulation or otherwise. The
22 Department of Natural Resources is authorized to receive and expend,
23 subject to appropriation, funds necessary to carry out its functions
24 under this section.

25 Sec. 38.15.060. EXCHANGE OF LAND. (a) With the consent of the
26 governor, a corporation organized under Alaska law pursuant to the
27 federal Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688)
28 which would otherwise be entitled to select land within the area with-
29 drawn by sec. 11(a)(1)(A) and (B) of the federal Act, which, however,

1 has been selected by and patented to the state before December 18,
2 1971, may obtain up to 23,040 acres of this land, if it has not been
3 disposed of or developed, by exchanging land or interests in land with
4 the state.

5 (b) An individual Native (as defined in the federal Act) or a
6 corporation referred to in (a) of this section may exchange land or an
7 interest in land with any other individual Native or corporation
8 referred to in (a) of this section or the state for the purpose of
9 effecting land consolidations or to facilitate the management or
10 development of the land.

11 (c) Exchanges shall be on the basis of equal value, and either
12 party to the exchange may pay or accept cash in order to equalize the
13 value of the properties exchanged.

14 * Sec. 5. AS 43.80 is amended by adding a new section to read:

15 Sec. 43.80.015. TAXATION UNDER P.L. 92-203. (a) The receipt of
16 the original issue of shares of stock in a corporation organized under
17 Alaska law pursuant to the federal Alaska Native Claims Settlement Act
18 (P.L. 92-203; 85 Stat. 688) by or on behalf of a Native (as defined
19 in the federal Act) is not subject to any form of state or local taxa-
20 tion.

21 (b) The receipt of land or an interest in it under the federal
22 Act or of cash in order to equalize the values of property exchanged
23 under sec. 22(f) of that Act or AS 38.15.060 is not subject to any
24 form of state or local taxation. The basis for computing gain or loss
25 on subsequent sale or other disposition of this land or interest in
26 land for purposes of a state or local tax imposed on or measured by
27 income is the fair value of the land or interest in land at the time
28 of receipt.

29 (c) A real property interest conveyed under the federal Act or

1 AS 38.15.050 or 38.15.060, including land received in an exchange under
2 sec. 22(f) of the federal Act or AS 38.15.060, to a Native individual
3 or corporation incorporated under Alaska law pursuant to the federal
4 Act, which interest is not developed or leased to third parties, is
5 exempt from state and local real property taxes and local assessments
6 until December 18, 1991. However, municipal taxes, local real property
7 taxes, or local assessments may, under the laws of the state, be
8 imposed upon leased or developed real property within the jurisdiction
9 of any governmental unit organized under the laws of the state.
10 Easements, rights-of-way leaseholds, and similar interests in real
11 property may be taxed in accordance with state or local law. All
12 rents, royalties, profits, and other revenues or proceeds derived from
13 property interests are taxable to the same extent as these revenues
14 or proceeds are taxable when received by a non-Native individual or
15 corporation. In sec. 21(d) of the federal Act, the exemption of real
16 property interests from local real property taxes includes exemption
17 from local assessments and extends to land received in an exchange
18 under sec. 22(f) of the federal Act or AS 38.15.060.

19 (d) Use of the terms "corporate funds" and "dividends", in sec.
20 7(j) and (m) of the federal Act, does not determine whether the money
21 is a dividend, distribution to shareholders, funds which are property,
22 surplus or capital of a regional corporation for the purposes of this
23 title or AS 10.05 or other applicable state law, the provisions of
24 sec. 8 of this Act notwithstanding.

25 * Sec. 6. AS 45.55 is amended by adding a new section to read:

26 Sec. 45.55.138. APPLICATION TO ALASKA NATIVE CLAIMS SETTLEMENT
27 ACT CORPORATIONS. The initial issue of stock of a corporation organ-
28 ized under Alaska law pursuant to the Alaska Native Claims Settlement
29 Act (P.L. 92-203; 85 Stat. 688) is not a sale of a security under

1 secs. 70 and 130(10) of this chapter.

2 * Sec. 7. AS 45.60 is amended by adding a new section to read:

3 Sec. 45.60.016. P.L. 92-203 CORPORATIONS; CUSTODIANS. (a) Stock
4 or membership in a corporation organized under Alaska law pursuant to
5 the Alaska Native Claims Settlement Act which a minor is entitled
6 under the settlement Act to receive shall be issued by the corporation
7 to a custodian.

8 (b) The custodian shall be determined in accordance with the
9 order of priority set out below, and the appointment becomes effective
10 upon the corporation's receipt of the custodian's written consent
11 to the appointment:

12 (1) the legal guardian, if any, of the minor;

13 (2) a parent, if any, of the minor, as selected by his
14 parents;

15 (3) an adult member of the minor's family, as defined in
16 sec. 91(12) of this chapter; it may also include members of the
17 family with whom the minor has customarily lived.

18 (c) For good cause, a district court or the superior court may
19 vary the order of priority set out in (b) of this section or appoint
20 another suitable person as custodian, and, for good cause, the
21 superior court may establish a guardianship under AS 20.05 for a
22 minor.

23 (d) The custodianship is governed by this chapter, as modified
24 by the following:

25 (1) in sec. 31(d), "deliver or pay over to the estate of
26 the minor" includes delivery to the heirs by intestate succession or
27 custodians for the heirs, under this chapter;

28 (2) under sec. 51, a third person is responsible for
29 determining whether stock is inalienable under the settlement Act;

1 (3) the custodian shall give an appropriate receipt for the
2 stock or other property received for the minor, which may include real
3 or personal property, gifts to a minor, and alienable stock vested in
4 the minor;

5 (4) the custodian may not alienate inalienable property
6 except within the limits provided by law;

7 (5) the form of registration or title shall be "as
8 custodian for ..[name.of.minor]..... under the Alaska Native Claims
9 Settlement";

10 (6) a custodian may not receive compensation except, upon
11 application to and approval by the superior court, for unusual and
12 extraordinary services;

13 (7) "custodial property" includes securities, money and
14 other real and personal property under supervision as a consequence of
15 the settlement Act.

16 (e) In this section, "settlement Act" means the Alaska Native
17 Claims Settlement Act (P.L. 92-203; 85 Stat. 688), including amendments
18 to it.

19 * Sec. 8. To the extent of an inconsistency between a provision of this
20 Act or AS 10.05 or 10.20 and a provision of the Alaska Native Claims Settle-
21 ment Act (P.L. 92-203; 85 Stat. 688) or a provision in the articles of
22 incorporation or bylaws required by the U.S. Secretary of the Interior under
23 sec. 7(e) of the federal Act, the federal Act or the required provision in
24 the articles or bylaws prevails with regard to a corporation organized under
25 Alaska law pursuant to the federal Act. To the extent of an inconsistency
26 between a provision of this Act and a provision of AS 10.05 or 10.20, this
27 Act prevails with regard to a corporation organized under Alaska law
28 pursuant to the federal Act.

29 * Sec. 9. AS 38.30 is repealed.

1 * Sec. 10. If an Act is passed by the Seventh Alaska Legislature repeal-
2 ing the provisions of AS 13.20, AS 13.30.115, enacted in sec. 2 of this Act,
3 is unaffected unless specifically referred to in the repealer, and the
4 revisor of statutes shall make an appropriate relocation of the section.

5 * Sec. 11. AS 13.30.115, enacted in sec. 2 of this Act, is retroactive
6 to December 18, 1971.

7 * Sec. 12. This Act takes effect on the day after its passage and
8 approval or on the day it becomes law without approval.

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