

Introduced: 4/10/72
Referred: State Affairs

1 IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE
BY REQUEST

2 SENATE BILL NO. 409

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."

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

10 * 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.

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

18 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
11 of 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 meanings
28 set out in AS 13.45.020(a). In this section "stock" includes membership in
29 a corporation organized under AS 10.20 and inchoate rights to stock .

1 * Sec. 3. AS 16.05 is amended by adding a new section to read:

2 Sec. 16.05.255. PROTECTION OF SUBSISTENCE RESOURCES. The board
3 may, upon petition by residents of an area, or upon request by a muni-
4 cipality or local governing body within an area, or upon its own
5 motion, after notice and hearing under the administrative adjudication
6 provisions of the Administrative Procedure Act (AS 44.62), close the
7 area to hunting, fishing and trapping, or limit those activities in
8 that area, as appropriate, with regard to resources it finds to be so
9 depleted that the health, welfare, or livelihood of residents of the
10 area are threatened. A closing or limitation under this section may
11 be made to apply exclusively to nonresidents of the area. A regulation
12 closing the area or limiting the activities, under this section, may
13 not exceed two years, but may be extended from time to time after
14 notice and hearing. The commissioner may close an area or limit
15 activities by an emergency order when the circumstances described in
16 this section arise.

17 * Sec. 4. AS 22.10.020 is amended by adding a new subsection to read:

18 (d) The superior court, in an action for divorce, separation,
19 or child support, affecting inalienable stock in a corporation organ-
20 ized under the federal Alaska Native Claims Settlement Act (P.L. 92-
21 203; 85 Stat. 688), may order the stock transferred to the spouse, a
22 child, guardian or custodian for a child, but may not order it sold
23 on the open market or transferred to other persons.

24 * Sec. 5. AS 38.15 is amended by adding new sections to read:

25 ARTICLE 2. MANAGEMENT CONTRACTS AND
26 LAND EXCHANGES; P.L. 92-203 CORPORATIONS.

27 Sec. 38.15.050. CONTRACTS BETWEEN DEPARTMENT OF NATURAL RESOURCES
28 AND P.L. 92-203 CORPORATIONS. A corporation organized under Alaska
29 law pursuant to the federal Alaska Native Claims Settlement Act

1 (P.L. 92-203; 85 Stat. 688) may contract with the state Department of
2 Natural Resources for the management of land; however, no sale, lease,
3 exchange or other disposal of this land may be made without the
4 approval of the corporation owning it. The contract is terminable
5 upon reasonable notice by either party to it; it may cover all or a
6 portion of the land of the corporation, and shall provide for the terms
7 of management by reference to law or regulation or otherwise. The
8 Department of Natural Resources is authorized to receive and expend,
9 subject to appropriation, funds necessary to carry out its functions
10 under this section.

11 Sec. 38.15.060. EXCHANGE OF LAND. (a) With the consent of the
12 governor, a corporation organized under Alaska law pursuant to the
13 federal Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688)
14 which would otherwise be entitled to select land within the area with-
15 drawn by sec. 11(a)(1)(A) and (B) of the federal Act, which, however,
16 has been selected by and patented to the state before December 18,
17 1971, may obtain up to 23,040 acres of this land, if it has not been
18 disposed of or developed, by exchanging land or interests in land with
19 the state.

20 (b) An individual Native (as defined in the federal Act) or a
21 corporation referred to in (a) of this section may exchange land or an
22 interest in land with any other individual Native or corporation
23 referred to in (a) of this section or the state for the purpose of
24 effecting land consolidations or to facilitate the management or
25 development of the land.

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

29 * Sec. 6. AS 43.80 is amended by adding a new section to read:

1 Sec. 43.80.015. TAXATION UNDER P.L. 92-203. (a) The receipt of
2 the original issue of shares of stock in a corporation organized under
3 Alaska law pursuant to the federal Alaska Native Claims Settlement Act
4 (P.L. 92-203; 85 Stat. 688) by or on behalf of a Native (as defined
5 in the federal Act) is not subject to any form of state or local taxa-
6 tion. Until December 18, 1991, these shares of stock are not subject
7 to state or local personal property taxation.

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

16 (c) A real property interest conveyed under the federal Act or
17 AS 38.15.050 or 38.15.060, including land received in an exchange under
18 sec. 22(f) of the federal Act or AS 38.15.060, to a Native individual
19 or corporation organized under the federal Act, which interest is not
20 developed or leased to third parties, is exempt from state and local
21 real property taxes and local assessment until December 18, 1991.
22 However, municipal taxes, local real property taxes, or local assess-
23 ments may, under the laws of the state, be imposed upon leased or
24 developed real property within the jurisdiction of any governmental
25 unit organized under the laws of the state. Easements, rights-of-way,
26 leaseholds, and similar interests in real property may be taxed in
27 accordance with state or local law. All rents, royalties, profits,
28 and other revenues or proceeds derived from property interests are
29 taxable to the same extent as these revenues or proceeds are taxable

1 when received by a non-Native individual or corporation. In sec. 21(d)
2 of the federal Act, the exemption of real property interests from local
3 real property taxes includes exemption from local assessments and
4 extends to land received in an exchange under sec. 22(f) of the federal
5 Act or AS 38.15.060.

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

12 (e) Revenues originating from the Alaska Native Fund (established
13 by sec. 6 of the federal Act) are not subject to any form of state or
14 local taxation at the time of receipt by a corporation organized under
15 the federal Act or a shareholder or individual Native, through dividends,
16 distributions, or in any other manner. This exemption does not apply
17 to income from the investment of these revenues.

18 * Sec. 7. AS 45.55 is amended by adding a new section to read:

19 Sec. 45.55.138. APPLICATION TO ALASKA NATIVE CLAIMS SETTLEMENT
20 ACT CORPORATIONS. The initial issue of stock of a corporation organ-
21 ized under the Alaska Native Claims Settlement Act (P.L. 92-203; 85
22 Stat. 688) is not a sale of a security under secs. 70 and 130(10) of
23 this chapter.

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

1 Alaska law pursuant to the federal Act. To the extent of an inconsistency
2 between a provision of this Act and a provision of AS 10.05 or 10.20, this
3 Act prevails with regard to a corporation organized under Alaska law
4 pursuant to the federal Act.

5 * Sec. 9. AS 38.30 is repealed.

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

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

12 * Sec. 12. This Act takes effect on the day after its passage and approv-
13 al or on the day it becomes law without approval.

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