

Introduced: 4/12/74
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 842

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain custodians."

7 * Section 1. AS 47.10 is amended by adding new sections to read:

8 Sec. 47.10.143. PROTECTION OF INTEREST IN P.L. 92-203 CORPORATE
9 STOCK AND DISTRIBUTIONS. (a) When a minor is in the emergency, tempo-
10 rary or permanent custody of the department, whether under an order of
11 the court or otherwise and the minor is known by the department to be
12 entitled to receive or has received stock or is entitled to receive future
13 distributions under the Alaska Native Claims Settlement Act (P.L. 92-203,
14 85 Stat. 688) and there is reason to believe that the interests of the
15 minor in the stock or distributions would be jeopardized by failure
16 of the department to take action to conserve the property received or
17 to be distributed, the department shall recommend a proper custodian
18 according to the provisions of secs. 144 and 145 of this chapter.

19 (b) A guardian, or guardian ad litem or conservator appointed by
20 the court shall be treated as a custodian for the purposes of secs.
21 143 - 146 of this chapter and AS 47.30.245, to the full extent necessary
22 to protect the interest of a minor or a person committed to the custody
23 of the department under ch. 30 of this title.

24 (c) When practicable and to the extent appropriate, the views of
25 the person in the custody of the department shall be considered in the
26 exercise of a discretionary function under secs. 143 - 146 of this
27 chapter. The court may find that a person in the custody of the depart-
28 ment is capable of exercising sufficient discretion to manage his own
29 affairs arising from the Alaska Native Claims Settlement Act and may

1 order that a minor be treated as an adult for the purposes of holding
2 or voting stock or managing benefits conferred by the Alaska Native
3 Claims Settlement Act.

4 Sec. 47.10.144. APPOINTMENT OF SPECIAL CUSTODIAN. (a) In exer-
5 cising its duties under sec. 143 of this chapter, the department shall
6 recommend a suitable person to the court to serve as the custodian of
7 the estate and to exercise voting rights on behalf of the minor according
8 to the provisions of AS 45.60.016(b)(1) - (3).

9 (b) If no suitable person is found who meets the standards in
10 AS 45.60.016(b)(1) - (3), the department may recommend and the court
11 may appoint a special custodian of the estate of the minor and a
12 special custodian empowered to vote the stock held by the minor, who
13 may be the same or a different person.

14 Sec. 47.10.145. QUALIFICATIONS AND DUTIES OF SPECIAL CUSTODIAN.

15 (a) When, under sec. 144(b) of this chapter, the court appoints a
16 special custodian of the estate of a minor beneficiary under the Alaska
17 Native Claims Settlement Act, the special custodian may hold the stock
18 certificate of the minor for safekeeping and shall hold and invest any
19 distributions of funds or dividends under the Alaska Native Claims
20 Settlement Act to which the minor is entitled, subject to the provisions
21 of sec. 146 and 147 of this chapter pending further order of the court.

22 (b) When, under sec. 144(b) of this chapter, the court appoints a
23 special custodian empowered to vote stock in a corporation established
24 under the Alaska Native Claims Settlement Act, the special custodian
25 shall be designated according to the following preferences and limita-
26 tions:

27 (1) he shall be a natural person;

28 (2) he shall qualify to vote, if possible, under any restric-
29 tions imposed by the articles of incorporation or bylaws of the corpora-

1 tion;

2 (3) no single custodian shall represent and vote the shares
3 of more than 10 minors committed to the custody of the state;

4 (4) in designating a custodian to exercise voting rights in
5 a regional corporation established under the Alaska Native Claims
6 Settlement Act, the court shall give a preference to a person, including
7 the village corporations, of the village of origin of the minor, if
8 established under the Act.

9 Sec. 47.10.146. TRUST RESPONSIBILITY. (a) A special custodian
10 appointed under sec. 145(a) of this chapter may provide as to distribu-
11 tions and dividends received from a corporation established under the
12 Alaska Native Claims Settlement Act

13 (1) that they be retained by the corporation and be held and
14 invested in common with other money of the corporation held for
15 unspeculative investment provided that a separate account is maintained
16 on the books of the corporation reflecting the balance and earnings
17 attributable to the minor;

18 (2) that they be invested in a common trust fund with the
19 resources received under the Alaska Native Claims Settlement Act by
20 other minors in the custody of the department;

21 (3) for any combination of these and other investments as
22 meets the standard for investment by an Alaska fiduciary; administrative
23 costs of investment may be paid from trust funds.

24 (b) Money held by a person under sec. 145 of this chapter are held
25 in trust for the benefit of the minor to be distributed to him upon his
26 reaching majority. These trust funds are not available for the support
27 of the minor so long as he is in the custody of the department and are
28 neither income nor resources available to the minor for purposes of
29 determining his eligibility for any program which might otherwise serve

1 his benefit. However, if the court finds that the funds in the
2 trust could be used to materially advance the health, education, welfare
3 or well-being of the minor and that otherwise no funds are available
4 from any source for the same purpose, money may be disbursed from the
5 trust to meet extraordinary needs.

6 * Sec. 2. AS 47.30 is amended by adding a new section to read:

7 Sec. 47.30.245. PROTECTION OF INTEREST IN CERTAIN STOCK AND
8 DISTRIBUTIONS. Notwithstanding any other provisions of this chapter,
9 the rights and interests of persons in the custody of the department under
10 this chapter arising from the adoption of the Alaska Native Claims
11 Settlement Act (P.L. 92-203; 85 Stat. 688) shall be treated in the same
12 manner and according to the same procedures insofar as applicable and
13 granted the same protection as the rights and interests of minors
14 established under AS 47.10.143 - 47.10.147.