

HB492

(11)
Date Referred: March 27, 1992

HOUSE COMMITTEE REPC...
FURTHER REFERRALS:

Date of Committee Action: 5/4/92

The FINANCE Committee considered:

HB 492

HOUSE BILL NO. 492

ANCSA VILLAGE CORP: LOAN ELIGIBILITY

"An Act relating to collateral offered by village corporations organized under the Alaska Native Claims Settlement Act for purposes of eligibility for certain state loan and loan guarantee programs."

RECOMMENDATIONS:

be replaced with (S HB 492 (L+C)) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) D CED 3/27/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP Machean ^{Machean}	✓	Barbara Barnes ^{Barnes}		X	
Mike Spore ^{Spore}	✓	Bob Sharp ^{Sharp}		X	
Mark Boyer ^{Boyer}	X	RECEIVED ^{R Phillips}		✓	
Tan Brown ^{Brown}	✓	Ulmer ^{Ulmer}		X	
Koponen ^{Koponen}	✓				
Larson ^{Larson}	X				

Mike Spore EP Machean
CHAIRMAN'S SIGNATURE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

FISCAL NOTE

No. 1
Bill Version: CSHB 492(L&C)
(H) Publish Date: 3-27-92

Revision Date: _____

Department Affected: Commerce & Econ. Dev.

Title: ANCSA Village Corp. Loan Eligibility

BRU: Banking, Securities & Corporations

Sponsor: Rep. Maclean

Component: _____

Requestor: House Labor & Commerce

COMPONENT SERIAL NO.	1	2	3	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND RESOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521
 Division: Banking, Securities & Corporations Date: _____
 Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*
 Agency: Department of Commerce & Economic Development Date: 3.24.92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

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CS FOR HOUSE BILL NO. 492 (L&C)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/27/92
 Referred: Finance

Sponsor(s): REPRESENTATIVES MACLEAN, Lincoln, Ivan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to collateral offered by village corporations organized under the Alaska
 2 Native Claims Settlement Act for purposes of eligibility for certain state loan and loan
 3 guarantee programs."

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

5 * Section 1. PURPOSE. The purpose of this Act is to give explicit recognition to use of the
 6 anticipated natural resource revenue payable under 43 U.S.C. 1606(i) (sec. 7(i), Alaska Native Claims
 7 Settlement Act) that is subject to distribution under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims
 8 Settlement Act) by regional corporations to village corporations in order to permit the village
 9 corporations to engage in economic development activities under the following state loan and loan
 10 guarantee programs:

- 11 (1) loans made from the bulk fuel revolving loan fund under AS 44.83.600 - 44.83.650;
 12 (2) loan guarantees provided by the business assistance program of the Alaska Industrial
 13 Development and Export Authority under AS 44.88.500 - 44.88.599;
 14 (3) tourism revolving fund loans under AS 45.90;

- 1 (4) loans guaranteed under the fishery product revolving loan guarantee fund of AS 45.92;
2 (5) loans guaranteed under the forest products business loan guarantee program of
3 AS 45.94; and
4 (6) small business loans under AS 45.95.

5 * Sec. 2. AS 44.83.610 is amended by adding a new subsection to read:

6 (d) If the loan applicant is a village corporation established under 43 U.S.C. 1601 - 1642,
7 as amended (Alaska Native Claims Settlement Act), the Alaska Energy Authority or its contractor
8 shall consider natural resource revenue payable under 43 U.S.C. 1606(i) (sec. 7(i), Alaska Native
9 Claims Settlement Act) and subject to distribution by the regional corporation to the village
10 corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement Act) as
11 acceptable collateral for purposes of making the loan.

12 * Sec. 3. AS 44.88.535(a) is amended to read:

13 (a) The authority may guarantee a loan under AS 44.88.500 - 44.88.599 if the

14 (1) loan

15 (A) is commercially reasonable;

16 (B) contains amortization provisions satisfactory to the authority;

17 (C) is secured by adequate collateral; however,

18 (i) if the loan applicant is a village corporation established
19 under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement
20 Act), the authority may consider natural resource revenue payable under
21 43 U.S.C. 1606(i) (sec. 7(i), Alaska Native Claims Settlement Act) and subject
22 to distribution by the regional corporation to the village corporation under
23 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement Act) as adequate
24 collateral for purposes of making the loan; and

25 (ii) the authority may waive on a case-by-case basis the
26 requirement of collateral for a loan guarantee of \$50,000 or less for which the
27 proposed loan amortization period does not exceed five years, but the ability to
28 waive the requirement of this subparagraph or the grant of a waiver does not
29 prevent the financial institution that holds the loan guaranteed by the authority
30 from requiring reasonable collateral for the loan;

31 (2) net cash flow from the borrower provides adequate coverage for the debt

- 1 service on the loan;
- 2 (3) term of the loan does not exceed 20 years;
- 3 (4) loan is originated with and serviced by a state chartered or federally chartered
- 4 financial institution;
- 5 (5) portion of the loan not guaranteed by the authority is held by the originating
- 6 financial institution or another financial institution approved by the authority;
- 7 (6) loan is made to a business with a majority interest held by state residents; and
- 8 (7) loan guarantee provides a benefit to the borrower.

9 * Sec. 4. AS 45.90.030 is amended by adding a new subsection to read:

10 (g) For purposes of (b) of this section, if the loan applicant is a village corporation
11 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
12 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
13 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
14 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
15 Act).

16 * Sec. 5. AS 45.92.050 is amended by adding a new subsection to read:

17 (d) For purposes of (a)(2) of this section, if the loan applicant is a village corporation
18 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
19 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
20 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
21 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
22 Act).

23 * Sec. 6. AS 45.94.050 is amended by adding a new subsection to read:

24 (d) For purposes of (a)(2) of this section, if the loan applicant is a village corporation
25 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
26 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
27 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
28 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
29 Act).

30 * Sec. 7. AS 45.95.020 is amended by adding a new subsection to read:

31 (f) For purposes of (a) of this section, if the loan applicant is a village corporation

1 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
2 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
3 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
4 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
5 Act).

SPONSOR STATEMENT

CS HB 492 (L&C)

Representative Eileen P. MacLean

HB 492 gives recognition to anticipated 7(i) revenues by village corporations as a source of collateral for participation in specific state loan and loan guarantee programs for economic development.

Under ANCSA, regional corporations are required to share 70% of net revenues from developed timber and subsurface resources among themselves and with the village corporations. These shared resources have been an important source of income for corporations without resource revenues of their own.

Although many village corporations do not have excess funds for development projects, some will be able to manage their funds so as to be able to plan for future projects. HB 492 will be helpful for those village corporations that have some flexibility in their overall financial planning process.

Specifically, HB 492 states that 7(i) revenue distributed to village corporations shall be considered as acceptable collateral for the purposes of determining eligibility in various state loan and loan guarantee programs.

Nothing in state law currently precludes village corporations from using 7(i) revenue as collateral for state loans. However, because 7(i) revenue can be unpredictable and difficult to determine, they have not been specifically identified in state statutes as collateral. This bill is intended to raise the awareness of the availability of 7(i) revenue as collateral and to encourage village corporations to consider 7(i) revenue for economic development projects.

THE VILLAGE CORPORATION:

A VEHICLE FOR RURAL ECONOMIC DEVELOPMENT

By

Rosita Worl

The primary stimulus for economic development in rural Alaska has generally been the result of resource extraction activities initiated by non-local companies or through the expenditures of state and local governments particularly during the oil-rich days. The activities stimulated economic growth in rural communities that were of limited duration and opportunities for rural residents.

The 200 locally-based village corporations created under the Alaska Native Claims Settlement Act offer the potential for long term economic development in Rural Alaska. They are dispersed throughout Alaska, and collectively they own approximately 22 million acres of surface lands much of which is generally adjacent to their villages. Most of the village corporations have had some business experience with varying results during the past decade. Generally the businesses are small with limited employment.

These village receive a portion of their revenues from distributions made by the Native regional corporations under Section 7(i) of the Alaska Native Claims Settlement Act. Section 7(i) requires regional corporations to pay out 70 percent of their profits from timber and sub-surface development to other regional and village corporations. The amount a village corporation receives is dependent on its shareholder population base. More often the 7(i) revenues are used to sustain corporate general and administrative costs. While the amounts vary and are generally small, they represent a steady stream of income. Sealaska has paid nearly \$60 million into the 7(i) stream, CIRI slightly more than that amount with NANA and Doyon also important contributors. As more regional corporations expand into timber and sub-surface development activities, village corporations will continue to receive 7(i) revenues.

The significance of the village 7(i) distributions became apparent to me when CIRI moved to escrow certain 7(i) payments in 1988/1989. The State had initiated a suit against the federal government contesting CIRI's rights to certain oil revenues, and CIRI moved to escrow the 7(i) monies until the issue was resolved. I was serving as Governor Cowper's Special Staff Assistant for Rural/Native Affairs. In that capacity, several village corporations contacted me outlining the dilemma they faced without the 7(i) revenues. I conducted an analysis of the amounts the villages would have received from CIRI's 7(i) payment, and the village corporations informed me of their use of the 7(i) monies.

For the purpose of this discussion, the point is that the village corporations appeared to use the 7(i) revenues to sustain their

headquarters. I thought it was unfortunate that they didn't leverage the 7(i) revenues to support their entry into active business investments. The single 7(i) payment is probably not adequate to allow entry into a business. However, a village corporation might be able to initiate a venture were they able to borrow against future 7(i) revenues.

As a board member of a regional corporation, I was recently involved in a process that allowed another regional corporation to use its 7 (i) revenues to secure a significant loan (in the \$10 million range). Several regional corporations signed a collateral note. The loan has been or is near repaid. While this 7(i) transaction was conducted through an agreement among the regional corporations, it represents a model that could be applied to village corporations to support their entry into business ventures.

It is more than likely that most village corporations lack investment and growth funds to enter larger businesses. Data are not available to project the amount of 7(i) revenues that village corporations will receive. However, given the nature of the sporadic payments of 7(i) monies to village corporations, financial institutions would probably not lend it funds for an investment activity without further assurances or a collateral. It is in this area that the State might explore how it would be able to provide direct assistance and business capital for village corporations.

If we accept the assumption that economic development in Rural Alaska that provides long term opportunities for residents will occur with a locally based corporation, the State would do well to work with village corporations. They have a corporate structure in place, a mixed history of business experience, and own resources that at this time have an unknown value.



The Aleut Corporation

February 25, 1992

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
Box V
Juneau, Alaska 99811

Dear Representative ^{Eileen} MacLean:

Thank you for sending copies of your bills concerning the ANCSA. We have reviewed the proposed bills and have no comments to further improve them.

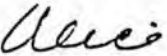
We have such a small staff that it is difficult to keep up with what is happening in the State Legislature, so I was quite pleased to receive your letter and request for comments.

The Draft Bill which would "recognize the use of anticipated 7(i) revenue by village corporations in order to encourage village corporations to engage in economic development programs in state loan and loan guarantee programs" is an excellent idea. Many of the villages in the Aleut region are struggling to obtain State funds for economic development projects, and this Draft Bill would certainly pave the way for obtaining the available loans.

The Aleut Corporation supports HB 315 to continue the restrictions on the alienability of ANCSA stock indefinitely. As a small corporation, the lifting of those restrictions could pose a serious threat to the future of our Corporation.

I wish you success in your efforts to assist the ANCSA corporations and thank you for the time you have taken to keep us informed. I know how very busy you are.

Sincerely,


Alice Petrivelli
President

are continuing major business expansions and active participation in the oil and gas industry. They may not consider securities a major source of long term earnings.

Our review of the combined asset base of the regional corporations leaves one big question unanswered: Assuming that the IRS ultimately approves most of the corporations' NOL sales, what will CIRI, Doyon, and Sealaska do with the combined \$225 million they are holding in escrow?⁸ What they choose to do with that huge amount of cash will have a major effect on the future finances of each.

Financial Results

We've seen a glimpse of the business strategies the corporations used through 1990. Now we look at how those strategies translated into income. We consider four major sources of income from 1974 through 1990: (1) business operations, (2) securities, (3) resource revenues, and (4) proceeds from sales of net operating losses (NOLs). First we talk in some detail about the corporations special sources of income—resource revenues and proceeds from NOL sales. Then we show how all four sources added up to total net income produced through 1990.

Special Sources of Income

RESOURCE REVENUES

All the corporations have looked for natural resources on their lands, and a few have been very successful in developing them. Resource development is risky, partly because extracting resources in Alaska is expensive and resource prices can change quickly. In many cases, the corporations chose to limit their risk by leasing their lands.

The corporations' success in developing natural resources is reflected in the revenues shared under sections 7(i) and 7(j) of ANCSA. Congress recognized that some regions would have more natural resources than others. So it required the regional corporations to share 70 percent of net revenues from developed timber and subsurface resources among themselves and with the village corporations and urban and at-large shareholders. The example box explains the process.

Figure 5 shows how net resource revenues were generated and shared among the regional and village corporations from 1976 through 1991.⁹

- The regional corporations generated \$398 million in net resource revenues from 1976 through 1991.

Revenue Sharing Process

To make the numbers simple, we assume a hypothetical corporation with 20 percent of total shareholders. The shares of the actual regional corporations depend on their percentages of total shareholders.

The hypothetical corporation first subtracts its expenses to determine net revenues, and then keeps 30 cents of each dollar.¹⁰ The remaining 70 cents is put into a pool which is divided among all twelve regions. With twenty percent of the shareholders, the hypothetical corporation gets 20 percent of this pool (14 cents). The other eleven corporations get the rest (56 cents). Next, all twelve corporations pay half of their shares of the pool money to their village corporations and to their urban and at-large shareholders. The other 11 regional corporations pay their village corporations 28 cents and keep 28 cents. Likewise, the hypothetical corporation splits its 14 cents in half, paying 7 cents to its village corporations and keeping 7 cents.

At the end, the hypothetical corporation keeps 37 cents—its original 30 cents, plus its share of the other 70 cents. The village corporations in the hypothetical region receive 7 cents. The other eleven regional corporations get 28 cents, and their village corporations get 28 cents.

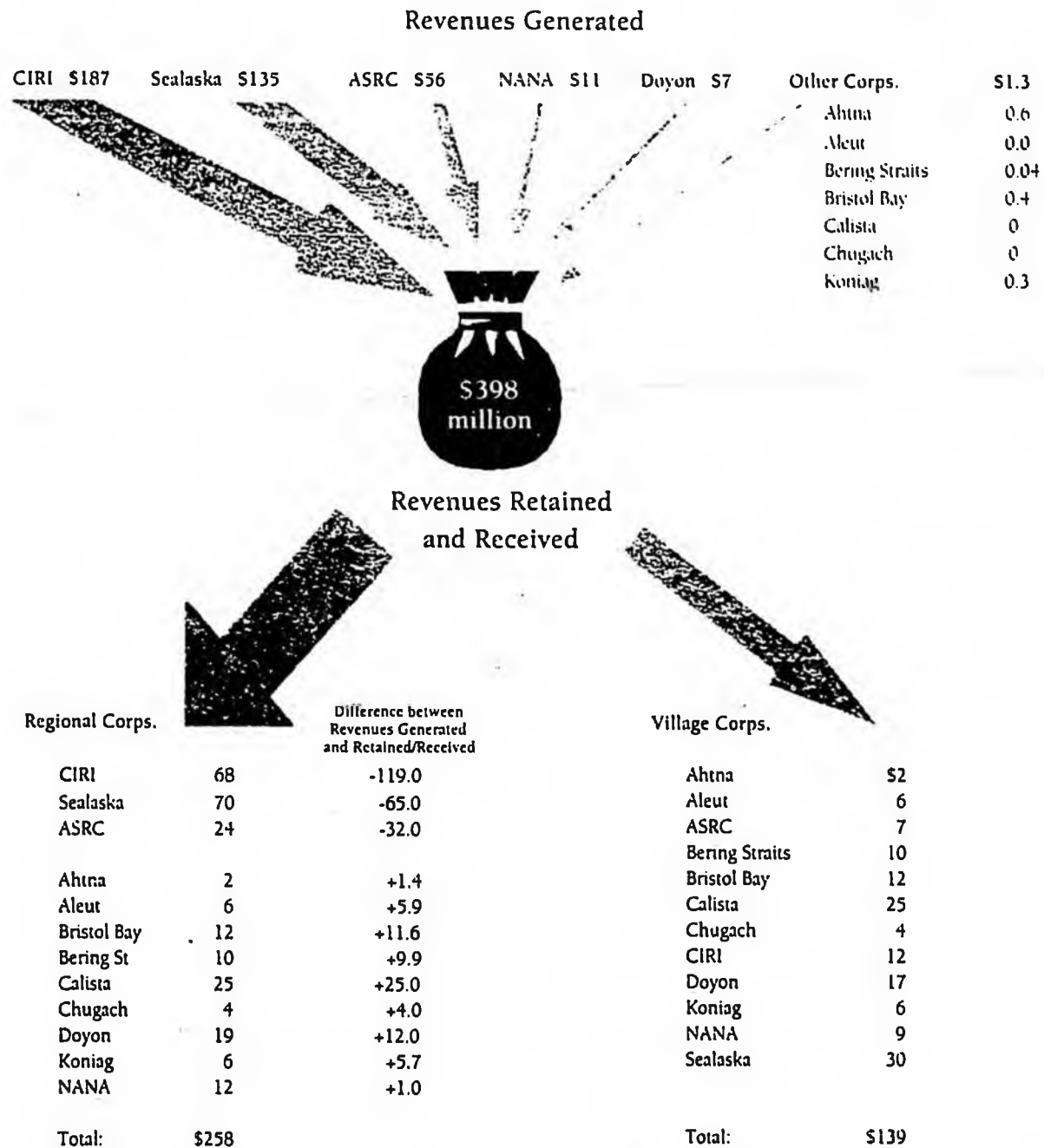
- CIRI, Sealaska, and Arctic Slope (ASRC) generated 95 percent of the total net resource revenues through 1991. CIRI contributed \$187 million, Sealaska \$135 million, and ASRC \$56 million. To get the money, CIRI and ASRC sold oil and gas leases; Sealaska sold timber.

- After sharing, the regional corporations kept \$258 million (or 65 percent) of net resource revenues and the village corporations received \$139 million (35 percent).

- Shared resource revenues have been an important source of income for the corporations without resource revenues of their own. Aleut, Bristol Bay, Bering Straits, Calista, Chugach, and Koniag generated very little or no resource revenues but collected more than \$60 million.

- ASRC has collected over \$30 million in revenues from an oil lease in the Arctic National Wildlife Refuge—but it doesn't have to share them. ASRC acquired subsurface rights in ANWR under a 1984 land trade with the federal government. In making the trade, ASRC did not give up any resources subject to 7(i) sharing—and the 7(i) settlement agreement (signed by all the corporations in 1982) says that if no 7(i) resources are given up in a trade, no 7(i) obligations apply to the lands received. So if other corporations hope to benefit from any future development in ANWR, they will have to negotiate their own trades (and several are currently attempting to do so).

Figure 5. Estimated Net Resource Revenues Generated and Received by Corporations, 1976-1991
(In millions of dollars)



Source: Estimated by author based on receipts data provided by CIRI, and cross-checked with available annual report data. Actual amounts may differ due to the timing of cash payments and changes over time in regional enrollment percentages.

Revenues Generated are net resource revenues (revenues after expenses are subtracted) generated within each region from 1976 through fiscal year 1991 and subject to the sharing provisions of ANCSA sections 7(i) and 7(j)

Revenues Retained and Received are the final disposition of the generated revenues. Only regional corporations generate revenues subject to 7(i) distribution. Village corporations and urban and at-large shareholders receive a portion of those revenues. Regional corporations retain a portion of 7(i) revenues they generate and receive shares from other corporations.