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STATE OF ALASKA
91 LEGISLATIVE SESSION

Bill Version: SB 283

(S) Publish Date: 5/19/91

Revision Date: _____ Department Affected: Commerce & Economic Dev.

Title: An Act relating to the inheritance and transfer of stock in corporation BRU: Banking, Securities & Corporations

Under ANCSA _____ Component: Financial Institutions

Sponsor: Sen. Adams

Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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
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REVENUE	0	0	0	0	0	0
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ENDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

SITUATIONS:

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

changes in CSSB 283 Jud, have no fiscal impact. This fiscal note is appropriate.
May 19, 91 date of change in
OSB/id Comte Aide (initial)

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

CSSB 283 delays probate provision of Native (ANCSA) corporation stock upon death of a shareholder until June 30, 1992.

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Division: Banking, Securities & Corporations Date: 5/15/91

Approved by Commissioner: Glenn A. Olds

Agency: Department of Commerce & Economic Development Date: 5/15/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CSB 283

The proposed substitute to SB 283 replaces the existing language of the bill with a simple amendment which extends the December 18, 1991, deadline in AS 13.11.012 and AS 13.16.705 until June 30, 1992. The purpose of this extension is to preserve the status quo for another year to allow the Legislature to take a more detailed look at the revisions proposed in the original bill.

AS 13.11.012 and AS 13.16.705 are statutes which were passed by the Legislature shortly after Congress passed the Alaska Native Claims Settlement Act in 1971. Their purpose was to reconcile state law with federal law, and to simplify the procedure for transferring ANCSA stock when a shareholder died.

Absent special legislation, ANCSA stock would be treated as an asset of the deceased, and subject to the probate laws of Alaska, if the deceased resided in Alaska when he died, or, if not, to the laws of whatever state the shareholder resided in at his death. AS 13.16.705 establishes Alaska as the situs for all Native Corporation stock, making Alaska law the applicable law. It also sets out a special procedure for transferring ANCSA stock. Instead of the stock passing through probate, the regional corporation determines who the heirs of the stock should be on the basis of affidavits submitted by the heirs. As long as the corporation transfers the stock on the basis of the affidavits, it is protected from liability. Any person who believes the stock was wrongfully transferred is entitled to bring an action in Superior Court to determine the rightful heirs to the stock. This is the same procedure which the Legislature has adopted for small estates, and it ensures that the stock can be transferred without a great deal of time or expense while at the same time protecting the rights of the individual heirs.

AS 13.11.012 establishes the surviving spouse's share of ANCSA stock if the deceased died intestate (without a will). Absent this provision, the surviving spouse's share would be determined on the basis of the value of the entire estate, including the ANCSA stock. This would require the estate to value Native Corporation stock. AS 13.11.012 eliminates this need for valuation by providing that the surviving spouse is entitled to a portion of the ANCSA stock.

ANCSA, as originally enacted in 1971, provided that all ANCSA corporation stock was inalienable until December 18, 1991. After that date, the stock would be transferable. AS 13.11.012 and AS 13.16.705 were written to expire on December 18, 1991 to coincide with ANCSA.

The special state legislation is necessary because it is difficult, if not impossible, to value ANCSA stock. Because the stock is inalienable, it cannot be bought, sold, pledged as security for a debt, or otherwise transferred, except in very limited circumstances. The stock therefore has no market value. Nor can the true value of Native Corporation stock be determined by reference to the financial statements of the corporation. Although the land is the major asset of many corporations, most have yet to receive all of the land they are entitled to under ANCSA. In addition, because of the speculative value of much of the land and certain accounting conventions, most of the Native Corporations assign no value to the land for financial statement purposes. Thus, the financial statements of most Native Corporations do not necessarily reflect the true value of the corporation.

AS 13.11.012 and AS 13.16.705 eliminated the need to make these difficult valuations, and established a simple procedure for the transfer of stock, thereby eliminating the need for costly lawyers and accountants.

In 1987 congress amended ANCSA. Basic ANCSA stock, now called "Settlement Common Stock", will remain inalienable indefinitely, until the shareholders vote to make the stock transferable. In addition, Native Corporations are given certain

opportunities to issue additional stock, both alienable and inalienable.

In order to make AS 13.11.012 and AS 13.16.705 conform to the revisions of ANCSA, as well as to take care of certain other needed changes, SB 283 was introduced. The Committee was concerned, however, that there was insufficient time remaining in the session to thoroughly consider all of its provisions.

The proposed amendment will preserve the status quo for an additional year to allow the Legislature time next session to consider all the revisions that are necessary. Without the amendment, the estates of those individuals who die after December 18, 1991 would be subject to probate, and could require expensive and time-consuming determinations of the value of ANCSA stock. In addition, certain individuals could acquire vested rights, preventing future legislation from being retroactive, and resulting in disparate treatment of ANCSA heirs.

The proposed amendment affects only stock issued by ANCSA corporations. It will have no effect upon any other stock or any asset of any Native other than ANCSA corporation stock.