

**HB**

**410**

<TARGET><BILL>HB 410</BILL><SUBJECT>HB  
410</SUBJECT><COMM>SCRA30</COMM></TARGET>

# Alaska State Legislature

## Community and Regional Affairs

Rep. Tiffany Zulkosky, Co-Chair  
Rep. Justin Parish, Co-Chair



Members: Rep. Harriet Drummond  
Rep. George Rauscher  
Rep. Dan Saddler  
Rep. David Talerico  
Alternates: Rep. DeLena Johnson  
Rep. Jonathan Kriess-Tomkins

### HB 410 – Reinstatement of Native Corporations

#### Sponsor Statement

House Bill 410 Native Village Corporation Reinstatement Legislation has been introduced and passed by the Legislature several times in recent decades. Unfortunately, it has not been rare for small ANCSA village corporations to miss filing biennial reports to the state and subsequently become involuntarily dissolved. Contributing factors have included inexperience and lack of professional guidance for corporate officers, as well as the remoteness of some of these communities and the vagaries of rural mail, especially when a corporation official relocates.

Whatever the reason for an involuntary dissolution, it is in the interest of the state to provide an opportunity for a village corporation to be reinstated. It is a matter of economic development. Allowing reinstatement will enable dissolved Native village corporations to resume business development with all the advantages that come with their status under the Alaska Native Claims Settlement Act.

HB 410 comes at no cost to the state. In fact, the Department of Commerce will see a slight increase in revenue, since any reinstated village corporation will be required to pay fees and associated penalties for late filing of annual reports.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version:	HB 410
Fiscal Note Number:	1
(H) Publish Date:	4/17/2018

Identifier: HB410-DCCED-CBPL-04-06-18  
 Title: REINSTATEMENT OF NATIVE CORPS  
 Sponsor: COMMUNITY & REGIONAL AFFAIRS  
 Requester: (H) Community & Regional Affairs

Department: Department of Commerce, Community and  
Economic Development  
 Appropriation: Corporations, Business and Professional  
Licensing  
 Allocation: Corporations, Business and Professional  
Licensing  
 OMB Component Number: 2360

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version/comments:**

Not applicable, initial version.

Prepared By:	Janey McCullough, Director	Phone:	(907)465-2538
Division:	Corporations, Business and Professional Licensing	Date:	04/06/2018
Approved By:	Catherine Reardon, Director	Date:	04/06/18
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2018 LEGISLATIVE SESSION

**Analysis**

HB410 changes the date through which an involuntarily dissolved Native corporation may reinstate from 12/31/2006 to 12/31/2020.

The Division of Corporations, Business, and Professional Licensing does not anticipate fiscal impact from this legislation.

Corporation filing fees are General Fund Program Receipts, fund source 1005 GF/Prgm (DGF). Corporation filing fees are set in regulation per AS 10 and 32, revenue in excess of authorized budgeted expenses reverts to the State of Alaska general fund.

**AS 10.06.960. Corporations organized under Alaska Native Claims Settlement Act.**

(a) A corporation organized under 43 U.S.C. 1601 et seq. as amended (Alaska Native Claims Settlement Act) shall be incorporated under and is subject to this chapter except

(1) each corporation shall issue without further consideration the number of shares of common stock that may be necessary to comply with the requirements of the Act and all stock so issued is considered fully paid and nonassessable when issued;

(2) unless otherwise provided in the articles of incorporation, the capital

(A) is considered the consideration for the initial issuance of shares; and

(B) of a corporation organized under the Act includes the

(i) land or interests in it conveyed to the corporation by the United States under the Act, except that which is required to be conveyed under 43 U.S.C. 1613(c)(1), (3), and (4), entered at its fair value to the corporation upon receiving the conveyance of it; and

(ii) money, when received under 43 U.S.C. 1605 and 43 U.S.C. 1608, that is retained by the corporation and that is not immediately distributed or required to be distributed under 43 U.S.C. 1606(j).

(b) Notwithstanding the provision of AS 10.06.305 — 10.06.390, payment from the money of a corporation organized under the Act that is required by the language of the Act to be distributed to shareholders or to other corporations so organized is not a distribution to its shareholders as defined in AS 10.06.990.

(c) Notwithstanding the provisions of AS 10.06.546, a plan of merger, consolidation, or exchange in which each participating corporation either (1) was organized under the Act, within the same one of the 12 regions of Alaska established under the Act, or (2) resulted from the prior merger, consolidation, or exchange of other similarly organized corporations within the same region, is approved if it receives the affirmative vote of the holders of at least a majority of the outstanding shares of each corporation. If a class of shares of a corporation specified in this subsection is entitled to vote as a class, the plan of merger, consolidation, or exchange is approved if it receives the affirmative vote of the holders of at least a majority of the outstanding shares of each class of shares entitled to vote as a class and of the total outstanding shares.

Notwithstanding AS 10.06.574 — 10.06.582, a plan of merger, consolidation, or exchange approved under this section before December 19, 1991, may not include a right of shareholders to dissent.

(d) [Repealed, § 21 ch 6 SLA 1993.] (e) Notwithstanding the provision of AS 10.06.502 — 10.06.510, a corporation organized under the Act may amend its articles by a vote of the board of directors in order for the corporation to comply with the mandatory requirements of the Act.

(f) Notwithstanding the other provisions of this chapter, a corporation organized under the Act is governed by the Act to the extent the Act is inconsistent with this chapter, and the corporation may take any action, including amendment of its articles, authorized by the Act, and the action is considered to be approved and adopted if approved under the Act. An amendment approved under the Act and delivered to the commissioner under AS 10.06.512 shall be filed by the commissioner under AS 10.06.910, and a certificate of amendment shall be issued.

(g) Notwithstanding AS 10.06.358, if there are no retained earnings, the directors of a corporation organized under the Act may declare and pay distributions in cash or property out of its net profits for the fiscal year in which the distribution is declared and for the preceding fiscal year, except when the corporation is insolvent under AS 10.06.360. For the purposes of this subsection, a corporation's debts include the amounts it is required to distribute under 43 U.S.C. 1606(i) and 43 U.S.C. 1606(j). The directors may determine the net profits derived from the

exploitation or liquidation of wasting assets without consideration of the depletion of those assets resulting from lapse of time, consumption, liquidation, or exploitation, of the assets, and a distribution declared from those net profits shall be described, concurrently with distribution of the net profits to shareholders, as a distribution from wasting assets without consideration of the depletion of the assets. In this subsection, "wasting assets" means timber resources and subsurface estates.

(h) Notwithstanding AS 10.06.358, the directors of a corporation organized under the Act may, from time to time, distribute to its shareholders in partial liquidation a portion of the corporation's assets out of capital, in cash or property, except that a distribution

(1) may not be made at a time when the corporation is insolvent under AS 10.06.360;

(2) may not be made unless the articles of incorporation authorize the board to make the distribution or the distribution is authorized by the affirmative vote of the holders of at least two-thirds of the outstanding shares;

(3) when made, shall be identified as a distribution in partial liquidation and the amount per share shall be disclosed to the shareholders concurrently with the distribution.

(i) Notwithstanding AS 10.06.633(e), a corporation that is organized as a Native corporation under the Act, that has been involuntarily dissolved by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during the period established under AS 10.06.633(e), may be reinstated under AS 10.06.633(e) within one year of June 29, 1994. The reinstated corporation and its shareholders have all of the rights, privileges, liabilities, and obligations that would have applied to them if the corporation had not been dissolved, and all corporate and shareholder actions taken during the period of dissolution are considered to be as valid as if dissolution had not occurred.

(j) If a corporation is formed before June 29, 1994 to replace a Native corporation that has been involuntarily dissolved under AS 10.06.633, and if the replacing corporation has the same name as the dissolved corporation, the replacing corporation and its shareholders succeed, upon payment of any amounts that would have been required for the reinstatement of the dissolved corporation under AS 10.06.633(e), to all of the rights, privileges, liabilities, and obligations that would have applied to the dissolved corporation and its shareholders if the dissolved corporation had been reinstated under AS 10.06.633(e).

(k) Notwithstanding (i) of this section and AS 10.06.633(e), a corporation that is organized as a Native village corporation under the Act, that has been involuntarily dissolved by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during the period established under AS 10.06.633(e) may be reinstated under AS 10.06.633(e) on or before December 31, 2006. The reinstated corporation and its shareholders have all of the rights, privileges, liabilities, and obligations that would have applied to them if the corporation had not been dissolved, and all corporate and shareholder actions taken during the period of dissolution are considered to be as valid as if dissolution had not occurred. If a corporation elects to reinstate under this subsection and if the corporation's previously used corporate name is no longer available for use by the corporation, then, notwithstanding AS 10.06.502 — 10.06.510, an amendment to the articles of incorporation changing the previously used corporate name may be adopted by action of the corporation's board of directors alone.

(l) [Renumbered as AS 10.06.504(d).] (m) [Renumbered as AS 10.06.504(e).] (n)

Notwithstanding AS 10.06.504(d), an amendment to the articles of incorporation of a corporation organized under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) and incorporated under former AS 10.05.005 to add a provision eliminating or limiting the personal liability of a

director to the corporation or its stockholders for monetary damages under AS 10.06.210(1)(M) may be adopted by the affirmative vote of a majority of the shares represented at the regular or special meeting at which a quorum is present in person or by proxy.

(o) Notwithstanding AS 10.06.455(b) and 10.06.504(d), an amendment to the articles of incorporation of a village corporation organized under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) and incorporated under former AS 10.05.005 to add a provision authorizing the classification of directors under AS 10.06.455 may be adopted by the affirmative vote of a majority of the shares represented at a regular or special meeting at which a quorum is present in person or by proxy.

(p) Notwithstanding AS 10.06.504(d), a Native corporation incorporated under former AS 10.05 before July 1, 1989, may amend its articles under this subsection to reduce the quorum necessary to hold a meeting of shareholders to one-third of the outstanding shares entitled to vote at a meeting, represented in person or by proxy. An amendment under this subsection is approved if it receives an affirmative vote of two-thirds of the shares represented in person or by proxy at an annual meeting. The Native corporation may not use the reduced quorum established under this subsection to adopt other amendments of the articles or to adopt resolutions to which 43 U.S.C. 1629b applies. AS 10.06.504(d) continues to apply to the adoption of other amendments of the articles.

(q) In this section,

- (1) "Act " means 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act);
- (2) "Native corporation" has the meaning given in 43 U.S.C. 1602(m).

Source: <http://www.legis.state.ak.us/basis/statutes.asp#10.06.960>

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March 12, 2018

Senator Lyman Hoffman  
State Capitol Room 518  
Juneau, AK 99801  
[Senator.Lyman.Hoffman@akleg.gov](mailto:Senator.Lyman.Hoffman@akleg.gov)

*RE: Kongnikilnomuit Yuita Corporation*

Dear Senator Hoffman:

This law firm represents Kongnikilnomuit Yuita Corporation ("KYC"), the village corporation for Bill Moore Slough. KYC was administratively dissolved in 2015. Under Alaska law, KYC cannot be revived absent special legislation. KYC has not yet received its final patent from BLM, and BLM will not issue a patent absent KYC existing as a village corporation in good standing with the State.

For this reason, I am requesting, on behalf of KYC, that your good offices consider special legislation for and on behalf of KYC allowing the Corporation an additional 2 years in which to seek reinstatement. I have drafted proposed language for that purpose, attached.

Obviously, KYC, being a tiny village without monetary resources, lacks the ability to travel to Juneau to request reinstatement. For that reason, and I trust that it will not be seen as anything other than an entreaty from one of your constituents, to request this special legislation.

I look forward to hearing from your staff as soon as possible regarding this matter.

Very truly yours,

FORTIER & MIKKO, P.C.



Samuel J. Fortier

SJF:mah

Enclosure

Alaska Entity #12065D

**State of Alaska**  
**Department of Commerce, Community, and Economic Development**  
**Corporations, Business, and Professional Licensing**

KONGNIKILNOMUIT YUITA CORPORATION  
Registered Agent: Mary Unok

## **Certificate of Involuntary Dissolution/Revocation**

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby issues this Certificate of Involuntary dissolution or Revocation to the below-mentioned entity.

This entity is dissolved/revoked for failure to either: file a biennial report; and/or pay the associated biennial report fees; and/or maintain a registered agent; and/or notify this office of any change to its registered agent by filing a statement of change; and/or pay the associated statement of change fees. The entity will cease to exist as of the date of this certificate, except as provided for by Alaska Statutes.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

**KONGNIKILNOMUIT YUITA CORPORATION**



IN TESTIMONY WHEREOF, I execute the certificate  
and affix the Great Seal of the State of Alaska  
effective September 25, 2015.

A handwritten signature in black ink, appearing to read "Chris Hladick".

Chris Hladick  
Commissioner

Alaska Entity #12065D

**State of Alaska**  
**Department of Commerce, Community and Economic Development**  
**Corporations, Business and Professional Licensing**

## **Certificate of Compliance**

The undersigned, as Commissioner of Commerce, Community and Economic Development of the State of Alaska, and custodian of corporation records for said state, hereby issues a Certificate of Compliance for:

### **KONGNIKILNOMUIT YUITA CORPORATION**

This entity was formed on June 21, 1973 and is in good standing. This entity has filed all biennial reports and fees due at this time.

No information is available in this office on the financial condition, business activity or practices of this corporation.



IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective July 10, 2013.

A handwritten signature in cursive script that reads "Susan K. Bell".

Susan K. Bell  
Commissioner