



LAWS OF ALASKA

1972

Source

CSHB 731

Chapter No.

70

AN ACT

Implementing the Alaska Native Claims Settlement Act; and providing for an effective date.

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

* Section 1. PURPOSE. It is the purpose of this Act to implement the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) by amending state law to resolve those ambiguities, conflicts and problems directly or impliedly created by the enactment by Congress of the Alaska Native Claims Settlement Act. It is also the purpose of this Act to complement through state policy, in a reasonable and fair manner, the federal policy expressed in that Act.

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

Sec. 13.30.115. INHERITANCE OF CERTAIN STOCK. (a) Until December 18, 1991, stock in a corporation organized under the laws of Alaska pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) which is inalienable under that Act is not subject to probate. Upon the death of the holder, if the stock does not pass by the testamentary disposition clause on the stock certificate, properly executed, it passes by will or intestate succession. In such a case, the determination of the person entitled to the stock shall be made by the appropriate regional corporation on the basis of an affidavit, furnished to it and to the corporation which issued the stock, showing the right of the person entitled to the stock to receive it and to have a new certificate issued to him. The affidavit, accepted in good faith by a corporation, has the same effect as an affidavit under sec. 4 of this chapter, and the person entitled to the stock, if the affidavit is not accepted, has the remedy set out in sec. 5 of this chapter. In case of dispute as to the person entitled

to receive the stock, a person claiming ownership may bring an independent action in the superior court.

(b) Each certificate representing stock in a corporation organized pursuant to the Alaska Native Claims Settlement Act shall bear provisions, on its reverse side, containing blanks to be filled in by the owner, constituting a last will and testament for the purposes of this section and sec. 7(h)(2) of the Alaska Native Claims Settlement Act insofar as the shares represented by that certificate are concerned during the period of its inalienability. The clause must be signed by the owner, dated and notarized. This testamentary disposition may be changed from time to time or revoked, and it governs unless there is a subsequently executed formal will making the specific disposition of the stock.

(c) When ownership of shares passes by devise or inheritance or as a result of court action, the shares shall be partitioned, insofar as practicable, in whole shares among those entitled to them.

(d) If a deceased shareholder has failed to dispose of his stock by will and has no heirs under the applicable laws of intestacy, his shares escheat to the corporation.

(e) The situs of inalienable stock of all corporations organized under the Alaska Native Claims Settlement Act is Alaska, until December 18, 1991.

(f) Where appropriate, terms used in this section have the meanings set out in AS 13.45.020(a). In this section "stock" includes membership in a corporation organized under AS 10.20 and inchoate rights to stock.

* Sec. 3. AS 22.10.020 is amended by adding a new subsection to read:

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

* Sec. 4. AS 38.15 is amended by adding new sections to read:

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

Sec. 38.15.050. CONTRACTS BETWEEN DEPARTMENT OF NATURAL RESOURCES AND P.L. 92-203 CORPORATIONS. A corporation organized under Alaska law pursuant to the federal Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) may contract with the state Department of Natural Resources for the management of land; however, no sale, lease, exchange or other disposal of this land may be made without the approval of the corporation owning it. The contract is terminable upon reasonable notice by either party to it; it may cover all or a portion of the land of

the corporation, and shall provide for the terms of management by reference to law or regulation or otherwise. The Department of Natural Resources is authorized to receive and expend, subject to appropriation, funds necessary to carry out its functions under this section.

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

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

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

* Sec. 5. AS 43.80 is amended by adding a new section to read:

Sec. 43.80.015. TAXATION UNDER P.L. 92-203. (a) The receipt of the original issue of shares of stock in a corporation organized under Alaska law pursuant to the federal Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) by or on behalf of a Native (as defined in the federal Act) is not subject to any form of state or local taxation.

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

(c) A real property interest conveyed under the federal Act or AS 38.15.050 or 38.15.060, including land received in an exchange under sec. 22(f) of the federal Act or AS 38.15.060, to a Native individual or corporation incorporated under Alaska law pursuant to the federal Act, which interest is not developed or leased to third parties, is exempt from state and local real property taxes and local assessments until December 18, 1991. However, municipal taxes, local real property taxes, or local assessments may, under the laws of the state, be imposed upon leased or developed real property within the jurisdiction of any governmental unit organized under the laws of the state.

Easements, rights-of-way leaseholds, and similar interests in real property may be taxed in accordance with state or local law. All rents, royalties, profits, and other revenues or proceeds derived from property interests are taxable to the same extent as these revenues or proceeds are taxable when received by a non-Native individual or corporation. In sec. 21(d) of the federal Act, the exemption of real property interests from local real property taxes includes exemption from local assessments and extends to land received in an exchange under sec. 22(f) of the federal Act or AS 38.15.060.

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

* Sec. 6. AS 45.55 is amended by adding a new section to read:

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

* Sec. 7. AS 45.60 is amended by adding a new section to read:

Sec. 45.60.016. P.L. 92-203 CORPORATIONS; CUSTODIANS.

(a) Stock or membership in a corporation organized under Alaska law pursuant to the Alaska Native Claims Settlement Act which a minor is entitled under the settlement Act to receive shall be issued by the corporation to a custodian.

(b) The custodian shall be determined in accordance with the order of priority set out below, and the appointment becomes effective upon the corporation's receipt of the custodian's written consent to the appointment:

(1) the legal guardian, if any, of the minor;

(2) a parent, if any, of the minor, as selected by his parents;

(3) an adult member of the minor's family, as defined in sec. 91(12) of this chapter; it may also include members of the family with whom the minor has customarily lived.

(c) For good cause, a district court or the superior court may vary the order of priority set out in (b) of this section or appoint another suitable person as custodian, and, for good cause, the superior court may establish a guardianship under AS 20.05 for a minor.

(d) The custodianship is governed by this chapter, as modified by the following:

(1) in sec. 31(d), "deliver or pay over to the estate of the minor" includes delivery to the heirs by intestate succession or custodians for the heirs, under this chapter;

(2) under sec. 51, a third person is responsible for determining whether stock is inalienable under the settlement Act;

(3) the custodian shall give an appropriate receipt for the stock or other property received for the minor, which may include real or personal property, gifts to a minor, and alienable stock vested in the minor;

(4) the custodian may not alienate inalienable property except within the limits provided by law;

(5) the form of registration or title shall be "as custodian for [name of minor] under the Alaska Native Claims Settlement";

(6) a custodian may not receive compensation except, upon application to and approval by the superior court, for unusual and extraordinary services;

(7) "custodial property" includes securities, money and other real and personal property under supervision as a consequence of the settlement Act.

(e) In this section, "settlement Act" means the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688), including amendments to it.

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

* Sec. 9. AS 38.30 is repealed.

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

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

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