Public Law 100-241
100th Congress

An Act

Feb. 3, 1988
[H.R. 278]

To amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act, and for other purposes.

Alaska Native Claims Settlement Act Amendments of 1987.
Securities.
43 USC 1601 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1987".

(b) Unless otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or subsection, the reference shall be considered to be made to a section or subsection of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following).

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

43 USC 1601 note.

SEC. 2. The Congress finds and declares that—

(1) the Alaska Native Claims Settlement Act was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native peoples of Alaska;

(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

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(B) whether Natives born after December 18, 1971, should participate in the settlement;

(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

(8) no provision of this Act shall—

(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulation of the taking, of fish and wildlife) or persons in Alaska; and

(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3. Section 3 (43 U.S.C. 1602) is amended—

(1) by inserting "group," after "individual," in subsection (h);

(2) by striking out "and" at the end of subsection (k);

(3) by striking out the period at the end of subsection (l) and inserting in lieu thereof a semicolon;

(4) by striking out "Native Group." in subsection (m) and inserting in lieu thereof "Group Corporation;"; and

(5) by adding at the end thereof the following new subsections:

"(n) 'Group Corporation' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

"(o) 'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this Act;

"(p) 'Settlement Common Stock' means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

"(q) 'Replacement Common Stock' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

"(r) 'Descendant of a Native' means—

"(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

"(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

"(A) occurred prior to his or her majority, and

"(B) is recognized at law or in equity;

"(s) 'Alienability restrictions' means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B);

"(t) 'Settlement Trust' means a trust—

"(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

"(2) operated for the sole benefit of the holders of the corporation's Settlement Common Stock in accordance with section 39 and the laws of the State of Alaska.".

ISSUANCE OF STOCK

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g)(1) SETTLEMENT COMMON STOCK.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

"(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

"(I) Natives born after December 18, 1971,

"(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

"(III) Natives who have attained the age of 65,

for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

"(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

"(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed canceled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

"(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

"(C)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other

distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) OTHER FORMS OF STOCK.—(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the laws of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

"(II) the restriction described in paragraph (1)(B)(iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

"(III) Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

"(D) During any period in which alienability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the

issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) DISCLOSURE REQUIREMENTS.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

"(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least sixty days prior to the date on which such proposal is to be submitted for a vote.

"(iii) If not later than thirty days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 per centum of the outstanding shares of Settlement Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

"(4) SAVINGS.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.".

SETTLEMENT COMMON STOCK

SEC. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1) RIGHTS AND RESTRICTIONS.—(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

"(ii) permit the holder to receive dividends or other distributions from the corporation; and

"(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

"(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

"(i) sold;

"(ii) pledged;

"(iii) subjected to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset under—

"(I) title 11 of the United States Code or any successor statute,

"(II) any other insolvency or moratorium law, or

"(III) other laws generally affecting creditors' rights; or

"(vi) otherwise alienated.

"(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendant of a Native—

"(i) pursuant to a court decree of separation, divorce, or child support;

"(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

"(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

"(2) INHERITANCE OF SETTLEMENT COMMON STOCK.—(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless canceled in accordance with subsection (g)(1)(B)(iii)) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be canceled.

"(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

"(i) the corporation—

"(I) amends its articles of incorporation to authorize such purchases, and

"(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and

"(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

"(C) Settlement Common Stock of a Regional Corporation—

"(i) transferred by will or pursuant to applicable laws of intestate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, or

"(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987,

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

"(3) REPLACEMENT COMMON STOCK.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed canceled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that subsection.

"(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

"(I) a share of Replacement Common Stock that carries such right, or

"(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

"(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

"(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

"(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's imme-

diate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

"(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

"(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.".

VILLAGE, URBAN, AND GROUP CORPORATIONS

SEC. 6. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c) APPLICABILITY OF SECTION 7.—The provisions of subsections (g), (h), and (o) of section 7 shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.".

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

SEC. 7. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

"SEC. 36. (a) COVERAGE.—Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section— 43 USC 1629b.

"(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 7, subsection (d)(1)(B) of this section, or section 37;

"(2) a resolution authorized by section 38(a)(2);

"(3) a resolution to establish a Settlement Trust; or

"(4) a resolution to convey all or substantially all of the assets of a Native Corporation to a Settlement Trust pursuant to section 39(a)(1);

shall be considered in accordance with the provisions of this section.

"(b) BASIC PROCEDURE.—(1) An amendment or resolution described in subsection (a) may be approved by the board of directors of a Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

"(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the

shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

"(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of—

Cemeteries.

"(i) land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery;

"(ii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 31 and following); and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

"(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

"(c) SHAREHOLDER PETITIONS.—(1)(A) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

"(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934. If a petition meets the applicable solicitation requirements and—

"(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

"(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

"(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after the date of enactment of the Alaska

Native Claims Settlement Act Amendments of 1987 elects application of section 37(d) in lieu of section 37(b). Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b). Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

"(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

"(A) a majority of the total voting power of the corporation, or

"(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

"(2) A Native Corporation in amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

"(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.".

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 36:

"DURATION OF ALIENABILITY RESTRICTIONS

"SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after December 18, 1991. 43 USC 1629c.

"(b) OPT-OUT PROCEDURE.—(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

"(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than five years after the rejection of the most recently rejected amendment to terminate restrictions; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than two years after the rejection of the most recently rejected amendment to terminate restrictions.

"(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every five years; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every two years.

"(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

"(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 38. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

"(c) RECAPITALIZATION PROCEDURE.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

"(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

"(i) an indefinite period of time;

"(ii) a specified period of time not to exceed fifty years; or

"(iii) a period of time that shall end upon the occurrence of a specified event.

"(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

"(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section

7(g)) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

"(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

"(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

"(d) OPT-IN PROCEDURE.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

"(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

"(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

"(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

"(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

"(i) an indefinite period of time, or

"(ii) a specified period of time of not less than one year and not more than fifty years.

"(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termi-

nation of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

"(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

"(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

"(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

"(i) voted against such amendment, and

"(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B),

shall notify the Corporation within ninety days of the date of the vote of the shareholders on the amendment of his or her desire.

"(B) Within one hundred and twenty days after the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

"(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

"(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

"(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

"(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed canceled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that section.

"(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

"(I) a share of alienable common stock carrying such right, or

"(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

"(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

"(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

"(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

"(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

"(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

"(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

"(I) that such transferee is or is not a Native or a descendant of a Native;

"(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

"(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

"(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

"(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

"(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

"(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

"(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

"(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed for purposes of such sections to be the beneficial owner of such security.

"(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.".

DISSENTERS RIGHTS

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 37:

"DISSENTERS RIGHTS

"SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation— 43 USC 1629d.

"(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

"(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

"(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

"(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

"(b) RELATIONSHIP TO STATE PROCEDURE.—(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

"(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

"(c) VALUATION OF STOCK.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

"(A) the Settlement Common Stock shall be valued as restricted stock; and

"(B) the value of—

"(i) any land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery; and

"(ii) the surface estate of any land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act, and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

"(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

"(d) FORM OF PAYMENT.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

"(A) a payment bond issued by an insurance company or financial institution;

"(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

"(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

"(i) land conveyed to the corporation pursuant to section 14(h)(1), or any other land used as a cemetery;

"(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 7(i); or

"(iii) the surface estate of land that is both—

Taxes.

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act; and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act),

unless the Board of Directors of the corporation acts so as to make such lien applicable to such surface estate.

"(2) A note issued pursuant to paragraph (1) shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

"(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

"(e) DIVIDEND ADJUSTMENT.—(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

"(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.".

SETTLEMENT TRUST OPTION

SEC. 10. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"SETTLEMENT TRUST OPTION

"SEC. 39. (a) CONVEYANCE OF CORPORATE ASSETS.—(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 36). 43 USC 1629e.

"(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

"(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

"(3) Conveyances made pursuant to this subsection—

"(A) shall be subject to applicable laws respecting fraudulent conveyance and creditors rights; and

"(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.

"(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

"(b) AUTHORITY AND LIMITATIONS OF A SETTLEMENT TRUST.—(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

"(A) operate as a business;

"(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation); or

"(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation. Discrimination, prohibition.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

"(A) appoint the trustees of the trust, and

"(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a Settlement Trust. An appointment or removal of a trustee in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(3) A Native Corporation that has established a Settlement Trust may expand the class of beneficiaries to include holders of Settlement Common Stock issued after the establishment of the trust without compensation to the original beneficiaries.

"(4) A Settlement Trust shall not be held to violate any laws against perpetuities.

"(c) SAVINGS.—(1) The provisions of this Act shall continue to apply to any land or interest in land received from the Federal Government pursuant to this Act and later conveyed to a Settle-

ment Trust as if the land or interest in land were still held by the Native Corporation that conveyed the land or interest in land.

Forests and forest products.

"(2) No timber resources subject to section 7(i) conveyed to a Settlement Trust shall be sold, exchanged, or otherwise conveyed except as necessary to—

"(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

"(B) prevent or suppress fire; or

"(C) ensure public safety.

The revenue, if any, from such timber harvests shall be subject to section 7(i) as if such conveyance had not occurred.

Contracts.

"(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i)) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

Contracts.

"(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 7(i) as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

"(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a), a conveyance to a Settlement Trust that does not—

"(A) render it—

"(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

"(ii) insolvent; or

"(B) occur when the Native Corporation is insolvent;

the assets so conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

"(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.".

ALASKA LAND BANK

SEC. 11. Section 907 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636) is amended—

(1) by striking out "subsection (c)(2)" throughout the section and inserting in lieu thereof "subsection (d)(1)";

(2) in the proviso of subsection (a), by striking out "lands not owned by landowners described in subsection (c)(2) shall not" and inserting in lieu thereof "no lands shall";

(3) by amending subsections (c), (d), and (e) to read as follows:

"(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

"(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

"(i) adverse possession and similar claims based upon estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgments resulting from a claim based upon or arising under—

"(I) title 11 of the United States Code or any successor statute,

"(II) other insolvency or moratorium laws, or

"(III) other laws generally affecting creditors' rights;

"(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

"(B) Except as otherwise provided specifically provided, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

"(i) 'Developed' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemp-

tions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'Leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purposes of this subsection—

"(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

"(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel.

"(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

"(i) developed or leased or sold to a third party;

"(ii) held by a Native Corporation in which neither—

"(I) the Settlement Common Stock of the corporation,

"(II) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, nor

"(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

"(iii) held by a Settlement Trust with respect to which any of the conditions set forth in section 39 of the Alaska Native Claims Settlement Act have been violated.

"(B) The exemptions described in clauses (iii), (iv), and (v) of paragraph (1)(A) shall not apply to any land, or interest in land—

"(i) to the extent that such land or interest is expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement, and

"(ii) to the extent necessary to enforce a judgment in any action at law or in equity (or any arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act.

"(C) If the exemptions listed in paragraph (1) are terminated with respect to land, or an interest in land, as a result of development (or a lease to a third party), and such land, or interest in land, subsequently reverts to an undeveloped state (or the third-party lease is terminated), then the exemptions shall again apply to such land, or interest in land, in accordance with the provisions of this subsection.

"(5) TAX RECAPTURE UPON SUBDIVISION PLAT RECORDATION.—(A) Upon the recordation with an appropriate government authority of an approved subdivision plat submitted by, or on behalf of, a Native individual, Native Corporation, or Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay in accordance with this paragraph all State and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(A)(ii) during the thirty months prior to the date of the recordation of the plat.

"(B) State and local property taxes specified in subparagraph (A) of this paragraph (together with interest at the rate of 5 per centum per annum commencing on the date of recordation of the subdivision plat) shall be paid in equal semi-annual installments over a two-year period commencing on the date six months after the date of recordation of the subdivision plat.

"(C) At least thirty days prior to final approval of a plat of the type described in subparagraph (A), the government entity with jurisdiction over the plat shall notify the submitting individual, corporation, or trust of the estimated tax liability that would be incurred as a result of the recordation of the plat at the time of final approval.

"(6) SAVINGS.—(A) No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other

Contracts.

obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(B) Enactment of this subsection shall not affect any real property tax claim in litigation on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(e) CONDEMNATION.—All land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act to a Native individual, Native Corporation, or Settlement Trust shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law."; and

(4) by adding at the end thereof the following new subsection:

"(g) STATE JURISDICTION.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.".

CONFORMING AMENDMENTS

SEC. 12. (a) SECTION 7.—Subsection (o) of section 7 (43 U.S.C. 1606) is amended to strike everything following the word "stockholder" except the period at the end of the subsection.

(b) SECTION 21.—Section 21 (43 U.S.C. 1620) is amended—

(1) by inserting after "distributions" in subsection (a) "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)";

(2) by striking out "Village Corporation" and inserting in lieu thereof "Native Corporation" in subsection (j); and

(3) by striking out everything after "one and one-half acres:" in subsection (j) and inserting in lieu thereof: "*Provided further,* That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.".

(c) SECTION 30.—Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking out "prior to December 19, 1991" and inserting in lieu thereof "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.".

15 USC 78m.

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 13(d)(1) of the Securities Exchange Act of 1934 is amended by inserting "or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act" after "Investment Company Act of 1940".

SEVERABILITY

43 USC 1601 note.

SEC. 13. Section 27 (85 Stat. 688) is amended to read as follows:

"SEVERABILITY

"SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If

any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.".

SECURITIES LAWS EXEMPTION

SEC. 14. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SECURITIES LAWS EXEMPTION

"SEC. 28. (a) A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881) until the earlier of the day after—

"(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

"(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

"(B) the shares are issued to persons or entities other than—

"(i) individuals who held shares in the corporation on the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987;

"(ii) Natives;

"(iii) descendants of Natives;

"(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2);

"(v) Settlement Trusts; or

"(vi) entities established for the sole benefit of Natives or descendants of Natives; or

"(2) the date on which alienability restrictions are terminated; or

"(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

"(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

"(c)(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

"(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(d)(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is

defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 per centum of the equity of the subsidiary.

"(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

"(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntarily register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.".

ELIGIBILITY FOR NEEDS-BASED FEDERAL PROGRAMS; MINORITY STATUS

SEC. 15. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsections:

"(c) In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 3(r)) to—

"(1) participate in the Food Stamp Program,

"(2) receive aid, assistance, or benefits, based on need, under the Social Security Act, or

"(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program, none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

"(A) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

"(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

"(C) a partnership interest;

"(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

"(E) an interest in a settlement trust.

"(d) Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

"(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

"(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

"(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

"(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

"(3) No provision of this subsection shall—

"(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraphs (1) and (2), or

"(B) supersede any such less restrictive standards in existence on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(f)(1) Section 3 of Public Law 97-451 (96 Stat. 2448) is amended by inserting 'or which is administered by the United States pursuant to section 14(g) of Public Law 92-203, as amended' after 'alienation' in subsection (3) and subsection (4). 30 USC 1702.

"(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451. 30 USC 1702 note.

"(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.".

JUDICIAL REVIEW

SEC. 16. (a) STATUTE OF LIMITATIONS.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment made by, or other provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall be barred unless filed within the periods specified in this subsection. 43 USC 1601 note.

(2) If a civil action described in paragraph (1) challenges—

(A) the issuance or distribution of Settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claims Settlement Act; or

(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections (c) or (d) of section 37 of such Act; or

(C) the denial of dissenters rights after the rejection of an amendment to terminate alienability restrictions pursuant to section 37(b) of such Act;

such civil action shall be barred unless it is filed within one year after the date of the shareholder vote authorizing such issuance or distribution, extension of restrictions, or denial of right, and unless a request for a declaratory judgment or injunctive relief is made before stock is issued or distributed.

(3) Any other civil action described in paragraph (1) shall be barred unless it is filed within two years of the date of the enactment of this Act.

(4) No Native Corporation taking an action described in paragraph (2)(A), (2)(B), or (2)(C) shall issue or distribute stock sooner than fourteen days after the date of the shareholder vote authorizing such action.

(b) JURISDICTION AND PROCEDURE.—(1) The United States District Court for the District of Alaska shall have exclusive original

jurisdiction over a civil action described in subsection (a)(1). The action shall be heard and determined by a court of three judges as provided in section 2284 of title 28 of the United States Code. An appeal of the final judgment of such court shall be made directly to the United States Supreme Court.

(2) No money judgment shall be entered against the United States in a civil action subject to this section.

(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

(1) to ensure that after the expiration of a reasonable period of time, Native Shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.

DISCLAIMER

30 USC 1601 note.

SEC. 17. (a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

Taxes.

(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed—

(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation.

Approved February 3, 1988.

LEGISLATIVE HISTORY—H.R. 278:

HOUSE REPORTS: No. 100-31 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-201 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 31, considered and passed House.
Oct. 29, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.