Public Law 105–333
105th Congress

An Act

To amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

Oct. 31, 1998
[H.R. 2000]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ANCSA Land Bank Protection Act of 1998.

SECTION 1. AUTOMATIC LAND BANK PROTECTION.

(a) LANDS RECEIVED IN EXCHANGE FROM CERTAIN FEDERAL AGENCIES.—The matter preceding clause (i) of section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(1)(A)) is amended by inserting "or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of the Alaska Native Claims Settlement Act or section 1302(h) of this Act or other applicable law" after "Settlement Trust".

(b) LANDS EXCHANGED AMONG NATIVE CORPORATIONS.—Section 907(d)(2)(B) of such Act (43 U.S.C. 1636(d)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following:

"(iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts, partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

(c) ACTIONS BY TRUSTEE SERVING PURSUANT TO AGREEMENT OF NATIVE CORPORATIONS.—Section 907(d)(3)(B) of such Act (43 U.S.C. 1636(d)(3)(B)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by adding at the end the following:

"(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint ventures whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

SEC. 2. DEVELOPMENT BY THIRD-PARTY TRESPASSERS.

Section 907(d)(2)(A)(i) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(2)(A)(i)) is amended—

(1) by inserting "Any such modification shall be performed by the Native individual or Native Corporation." after "substantial modification.";

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(2) by inserting a period after "developed state" the second place it appears; and

(3) by adding "Any lands previously developed by third-party trespassers shall not be considered to have been developed.".

SEC. 3. RETAINED MINERAL ESTATE.

(a) IN GENERAL.—Section 12(c)(4) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

"(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections (a) or (b), the Corporation may, upon request, have such public land conveyed to it.

"(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)).

"(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

"(iii) For purposes of this subparagraph and subparagraph (C), the term 'Regional Corporation' shall refer only to Doyon, Limited."; and

(2) in subparagraph (E) (as so redesignated), by striking "(A) or (B)" and inserting "(A), (B), or (C)".

(b) FAILURE TO APPEAL NOT PROHIBITIVE.—Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding at the end the following:

"(5) Subparagraphs (A), (B), and (C) of paragraph (4) shall apply, notwithstanding the failure of the Regional Corporation to have appealed the rejection of a selection during the conveyance of the relevant surface estate.".

SEC. 4. AMENDMENT TO PUBLIC LAW 102–415.

Section 20 of the Alaska Land Status Technical Corrections Act of 1992 (106 Stat. 2129), is amended by adding at the end the following new subsection:

"(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to subsurface estate are hereby provided to CIRI. Within 1 year from the date of the enactment of this subsection, CIRI shall select 3,520 acres of subsurface estate in land from the area designated for selection by paragraph I.B.(2)(b) of the document identified in section 12(b) (referring to the Talkeetna Mountains) of the Act of January 2, 1976 (43 U.S.C. 1611 note). Not more than five selections shall be made under this subsection, each of which shall be reasonably compact and in whole sections, except when separated by unavailable land or when the remaining entitlement is less than a whole section.".

Deadline.

SEC. 5. CLARIFICATION ON TREATMENT OF BONDS FROM A NATIVE CORPORATION.

Section 29(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) is amended—

(1) in paragraph (3)(A), by inserting "and on bonds received from a Native Corporation" after "from a Native Corporation"; and

(2) in paragraph (3)(B), by inserting "or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 7(h) until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution" before the semicolon.

SEC. 6. CALISTA NATIVE CORPORATION LAND EXCHANGE.

(a) CONGRESSIONAL FINDINGS.—Congress finds and declares that—

(1) the land exchange authorized by section 8126 of Public Law 102–172 should be implemented without further delay;

(2) the Calista Corporation, the Native Regional Corporation organized under the authority of the Alaska Native Claims Settlement Act for the Yupik Eskimos of Southwestern Alaska, which includes the majority of the Yukon Delta National Wildlife Refuge—

(A) has responsibilities provided for by the Alaska Native Claims Settlement Act to help address social, cultural, economic, health, subsistence, and related issues within the region and among its villages, including the viability of the villages themselves, many of which are remote and isolated; and

(B) has been unable to fully carry out such responsibilities;

(3) the implementation of the exchange referenced in this subsection is essential to helping Calista utilize its assets to carry out those responsibilities and to realize the benefits of the Alaska Native Claims Settlement Act;

(4) the parties to the exchange have been unable to reach agreement on the valuation of the lands and interests in lands to be conveyed to the United States under section 8126 of Public Law 102–172; and

(5) in light of the foregoing, it is appropriate and necessary in this unique situation that Congress authorize and direct the implementation of this exchange as set forth in this section in furtherance of the purposes and underlying goals of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act.

(b) LAND EXCHANGE IMPLEMENTATION.—Section 8126 of Public Law 102–172 (105 Stat. 1206) is amended to read as follows:

"SEC. 8126. (a)(1) In exchange for lands, partial estates, and land selection rights identified in the document entitled 'The Calista Conveyance and Relinquishment Document', dated October 28, 1991, as amended September 22, 1998 (hereinafter referred to as 'CCRD'), the United States will establish a property account for the Calista Corporation, a corporation organized under the laws of the State of Alaska, in the amount identified in the CCRD, and in accordance with the provisions of this Act. Calista Corporation.

"(2) The CCRD contains the land descriptions of the lands and interests in lands to be conveyed, the selections to be relinquished, the charges to entitlement, the quantity and class of entitlement to be transferred to the United States, the terms of the Kuskokwim Corporation Conservation Easement, and the amount that is authorized for the property account.

"(3) The covenants, terms, and conditions to be used in any transfers to the United States described in the CCRD shall be binding on the United States and the participating Native corporations and shall be a matter of Federal law.

"(b)(1) The aggregate values of such lands and interests in lands, together with compensation for the considerations set forth in congressional findings concerning the Calista Region and its villages, shall be the sum provided in section IX of the CCRD. The amounts credited to the property account described in this subsection shall not be subject to adjustment for minor changes in acreage resulting from preparation or correction of the land descriptions in the CCRD or the exclusion of any small tracts of land as a result of hazardous material surveys. The Secretary of the Interior shall maintain an accounting of the lands and interests in lands remaining to be conveyed or relinquished by Calista Corporation and the participating village corporations pursuant to this section. The Secretary of the Treasury on October 1, 1998, shall establish a property account on behalf of Calista Corporation.

"(2) The account shall be credited and available for use as provided in paragraph (4), according to the following schedule of percentages of the amount in section IX of the CCRD:

"(A) On October 1, 1999, and on October 1 of each year thereafter through October 1, 2005, the amount equal to 12.69 percent.

"(B) On October 1, 2007, the amount equal to 11.17 percent.

"(3)(A) Unless otherwise authorized by law, the aggregate amount of all credits to the account, pursuant to the schedule set forth in paragraph (2), shall be equal to the amount in section IX of the CCRD.

"(B) All amounts credited to the account shall be from amounts in the Treasury not otherwise appropriated and shall be available for expenditure without further appropriation and without fiscal year limitation.

"(4) The property account may not be used until all conveyances, relinquishments of selections, and adjustments to entitlements described in the CCRD have been made to and accepted by the United States. The Secretary of the Interior shall notify the Secretary of the Treasury when all requirements of the preceding sentence have been met. Immediately thereafter the Secretary of the Treasury shall comply with his duties under this paragraph including the computations of the amount in the account, the amount that may be expended in any particular Federal fiscal year, and the balance of the account after any transaction. The property account may be used in the same manner as any other property account held by any other Alaska Native Corporation.

Notification.

"(5) Notwithstanding any other provision of law, Calista Corporation on its own behalf or on behalf of the village corporations identified in the CCRD, may assign any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(6) The Secretary of the Treasury shall notify the Secretary of the Interior and Calista whenever there is a reduction in the property account, the purpose for such reduction and the remaining balance in the account. The Alaska State Office of the Bureau of Land Management shall be the official repository of such notices. Notification.

"(7) For the purpose of the determination of the applicability of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) to revenues generated pursuant to that section, such revenues shall be calculated in accordance with section IX of the CCRD.

"(8) The United States shall not be liable for the redistribution of benefits by the Calista Corporation to the participating Alaska Native village corporations pursuant to this section.

"(9) These transactions are not based on appraised property values and therefore shall not be used as a precedent for establishing property values.

"(10) Prior to the issuance of any conveyance documents or relinquishments and acceptance, the Secretary of the Interior and the participating Native corporations may, by mutual agreement, modify the legal descriptions included in the CCRD to correct clerical errors.

"(11) Property located in the State of Alaska that is purchased by use of the property account shall be considered and treated as conveyances of land selections under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(12) The conveyance of lands, partial estates, and land selection rights and relinquishment or adjustments to entitlement made by the Alaska Native Corporations pursuant to this section and the use of the property account in the Treasury shall be treated as the receipt of land or any interest therein or cash in order to equalize the values of properties exchanged pursuant to section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(f)) as provided in the first sentence in section 21(c) of that Act (43 U.S.C. 1620(c)).

"(13) With respect to the content of the CCRD, the Secretary of the Interior, the Calista Regional Corporation, and the participating village corporations agree upon the lands, interests in lands, relinquishments and adjustments to entitlement described therein that may be offered to the United States pursuant to this section. These parties also agree with the amounts to be made available in the property account once all conveyances and relinquishments are completed, and the parties agree with the needs set forth in the congressional findings in section 6(a) of the ANCSA Land Bank Protection Act of 1998. The parties do not necessarily agree on the hortatory statements, descriptions, and attributions of resource values which are included in the CCRD as drafted by Calista. But such disagreements will not affect the implementation of this section.

"(14) Descriptions of resource values provided for surface lands which are not offered in the exchange and will remain privately owned by village corporations form no part of the consideration for the exchange.".

SEC. 7. MINING CLAIMS.

Paragraph (3) of section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by striking out "regional corporation" each place it appears and inserting in lieu thereof "Regional Corporation"; and

Haida Corporation.
Haida Traditional Use Sites.

(2) by adding at the end the following: "The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 7(i) of this Act.".

SEC. 8. SALE, DISPOSITION, OR OTHER USE OF COMMON VARIETIES OF SAND, GRAVEL, STONE, PUMICE, PEAT, CLAY, OR CINDER RESOURCES.

Subsection (i) of section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) is amended—

(1) by striking "Seventy per centum" and inserting "(A) Except as provided by subparagraph (B), 70 percent"; and

(2) by adding at the end the following:

"(B) In the case of the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made during a fiscal year ending after the date of enactment of this subparagraph, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is intended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.".

SEC. 9. ALASKA NATIVE ALLOTMENT APPLICATIONS.

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

Applicability.

"(7) Paragraph (1) of this subsection and subsection (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

"(A) that is open and pending on the date of enactment of this paragraph;

"(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959; and

"(C) if any protest which is filed by the State of Alaska pursuant to paragraph (5)(B) with respect to the application is withdrawn or dismissed either before, on, or after the date of the enactment of this paragraph.

"(8)(A) Any allotment application which is open and pending and which is legislatively approved by enactment of paragraph (7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant's commencement of use and occupancy.

"(B) The jurisdiction of the Secretary is extended to make any factual determinations required to carry out this paragraph.".

SEC. 10. VISITOR SERVICES.

Paragraph (1) of section 1307(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(b)) is amended—

(1) by striking "Native Corporation" and inserting "Native Corporations"; and

(2) by striking "is most directly affected" and inserting "are most directly affected".

SEC. 11. LOCAL HIRE REPORT.

Deadline.
16 USC 3198 note.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall transmit to Congress a report.

(b) LOCAL HIRE.—The report required by subsection (a) shall—

(1) indicate the actions taken in carrying out subsection (b) of section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198);

(2) address the recruitment processes that may restrict employees hired under subsection (a) of such section from successfully obtaining positions in the competitive service; and

(3) describe the actions of the Secretary of the Interior in contracting with Alaska Native Corporations to provide services with respect to public lands in Alaska.

(c) COOPERATION.—The Secretary of Agriculture shall cooperate with the Secretary of the Interior in carrying out this section with respect to the Forest Service.

SEC. 12. SHAREHOLDER BENEFITS.

Section 7 of the Alaskan Native Claims Settlement Act (43 U.S.C. 1606) is amended by adding at the end the following:

"(r) BENEFITS FOR SHAREHOLDERS OR IMMEDIATE FAMILIES.—The authority of a Native Corporation to provide benefits to its shareholders who are Natives or descendants of Natives or to its shareholders' immediate family members who are Natives or descendants of Natives to promote the health, education, or welfare of such shareholders or family members is expressly authorized and confirmed. Eligibility for such benefits need not be based on share ownership in the Native Corporation and such benefits may be provided on a basis other than pro rata based on share ownership.".

SEC. 13. SHAREHOLDER HOMESITE PROGRAM.

Section 39(b)(1)(B) of the Alaskan Native Claims Settlement Act (43 U.S.C. 1629e(b)(1)(B)) is amended by inserting after "settlor corporation" the following: "or the land is conveyed for a homesite by the Trust to a beneficiary of the Trust who is also a legal resident under Alaska law of the Native village of the settlor corporation and the conveyance does not exceed 1.5 acres".

43 USC 1601 note.

SEC. 14. SHORT TITLE.

This Act may be cited as the "ANCSA Land Bank Protection Act of 1998".

Approved October 31, 1998.

LEGISLATIVE HISTORY—H.R. 2000:

HOUSE REPORTS: No. 105–677 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 144 (1998):
Sept. 23, considered and passed House.
Oct. 7, considered and passed Senate.