

A Bill

H.R. 4162

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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.

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 1986".

(b) Whenever, in this Act, an amendment is expressed in terms of an amendment to a section or provision, the reference shall be considered to be made to a section or provision of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).

CONGRESSIONAL FINDINGS

Sec. 2. Congress finds and declares—

(a) the Alaska Native Claims Settlement Act (ANCSA) was enacted to achieve a fair and just settlement of all claims by Natives and Native groups based upon aboriginal land claims in a manner consistent with the real economic and social needs of the Alaska Natives, including maximum participation by Native people in decisions which affect their rights and property;

(b) the corporate model adopted by ANCSA is frequently ill-adapted to the reality of life in many Alaska Native villages and to traditional Native cultural values;

(c) although Congress mandated that the settlement be implemented rapidly and without litigation, the complexity of the land conveyance process and frequent and costly litigation have delayed the implementation of the settlement and significantly diminished its value;

(d) providing Alaska Natives maximum participation in decisions affecting their rights and property necessitates that ANCSA be amended to—

(A) provide the stockholders of each Native Corporation an opportunity to implement the settlement in the manner which they determine is best suited to their particular circumstances and needs, including, but not limited to, an opportunity to decide the manner in which Alaska Natives born after December 18, 1971, should participate in the settlement and whether the business corporation is the most appropriate entity to hold legal title to lands conveyed in partial settlement of aboriginal claims; and

(B) continued restrictions on the transfer of stock of Native Corporations until such time as the stockholders of a corporation may vote to terminate such restrictions; and

(e) both ANCSA, as amended, and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Commerce

Clause to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3 (a) Section 3 (43 U.S.C. 1602) is amended by adding the word "group" after the word "individual," in subsection (h); striking the word "and" at the end of subsection (k); and by striking the periods at the end of subsections (l) and (m) and inserting, in lieu thereof, semicolons.

(b) Section 3 is further amended by adding the following new subsections:

"(n) 'Native common stock' means the stock of a Native Corporation issued pursuant to subsection (g) of section 7 which carries with it the rights and restrictions provided for in paragraph (1) of subsection 7(h); and

"(o) 'descendant of a Native' means a lineal descendant of a Native if he or she were alive on December 18, 1971, or an adoptee of a Native or descendant of a Native whose adoption is recognized at law or in equity."

NEW STOCK ISSUANCE

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1602 (g)) is amended to read as follows:

"(g)(1) The Regional Corporation shall be authorized to issue such number of shares 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 Native common stock to each Native enrolled in the region pursuant to section 5 of this Act.

"(2) Notwithstanding any other law, a Regional Corporation, if authorized by an amendment to its articles of incorporation, may issue up to one hundred shares of additional Native common stock to—

"(A) Natives born after December 18, 1971;

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

"(C) Natives who were eligible for enrollment pursuant to section 5, but who were not enrolled;

for no consideration or for such consideration and upon such terms and conditions as may be specified in the articles of incorporation or by a resolution of the board of directors pursuant to authority expressly vested in it by the articles of incorporation.

"(3)(A) Notwithstanding any other provision of this Act and in addition to any other existing authority, any Regional Corporation, after the date of enactment of this paragraph, may amend its articles of incorporation to authorize the issuance of additional shares of stock as provided in this paragraph.

"(B) such shares of stock may be—

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation, dividend rights, voting rights, liquidation preferences, and rights to share in distributions made to

stockholders under subsections (j) and (m) of this section;

"(ii) subject to alienability restrictions not in excess of the restrictions provided for in paragraph (1) of subsection (h) of this section;

"(iii) restricted in issuance to—

"(a) Natives who have reached the age of sixty-five; or

"(b) any other identifiable group of Natives, where such group is defined in terms of general applicability and, except as provided in subparagraph (H) of this paragraph, not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation, or stockholder of a Native Corporation other than the issuing Corporation; and

"(iv) issued as a dividend or other distribution upon outstanding shares of stock or for such consideration as may be permitted by law;

as may be provided in the articles of incorporation or an amendment thereto.

"(C) Any amendment to the articles of incorporation of a Regional Corporation which permits the issuance of classes or series of stock other than Native common stock shall specify the maximum number of shares of any such class or series and the maximum number of votes that may be held by shares of such class or series.

"(D) During any period in which the restrictions on alienation of Native common stock imposed by paragraph (1) of section 7(h) are in effect, no stock may be issued under this paragraph to a group of individuals composed only of employees, officers or directors of the Regional Corporation.

"(E) If any amendment to the articles of incorporation permits the issuance of classes or stock which, when issued, singly or in combination, may cause the outstanding shares of Native common stock to represent less than a majority of the voting power of all stock in the Regional Corporation, the stockholders of such corporation shall be expressly so advised in the proxy statement or other informational material distributed in advance of their vote upon the amendment.

"(F) In no event may shares of stock other than Native common stock be issued more than thirteen months after the date of the stockholder vote authorizing the issuance of such stock if, as a result of the issuance of such stock, the outstanding shares of Native common stock will represent less than a majority of the voting power of all stock in the Regional Corporation. The

restriction of this subparagraph shall be of no further force and effect if shares of stock previously have been lawfully issued pursuant to this paragraph which have caused the shares of the Native common stock to represent less than a majority of the voting power of all stock in the Regional Corporation or if the restrictions upon alienation of Native common stock provided for in paragraph (1) of section 7(h) have expired under section 7a or have been terminated under section 7(h) by vote of the stockholders.

"(G) Notwithstanding the issuance of additional shares of Native common stock or new classes or series of stock pursuant to this paragraph, the Regional Corporation shall continue to apply the ratio last computed under subsection (m) of this section before the date of enactment of this paragraph for purposes of distributing funds under subsections (j) and (m) of this section.

"(H) If shares of different classes or series have been issued pursuant to this paragraph to nonvillage stockholders as described in subsection (m), distributions payable under subsections (j) and (m) of this section shall be made with respect to such classes or series in accordance with the rights, if any, of each class or of incorporation or an amendment thereto and, if so provided, the series to share in such distributions as provided in the articles right to share in such distributions may be established as a right or other security separate from any other shares issued to such nonvillage stockholders.

"(I) Common stock issued pursuant to this subsection which carries the same rights and restrictions provided for in substitution for Native common stock shall be deemed to be Native common stock as long as all such rights and restrictions are in effect with respect thereto.

"(4) The issuance of additional shares of Native common stock or other stock pursuant to paragraphs (2) and (3) of this subsection shall have no effect on the division and distribution of revenues pursuant to subsection (i) of this section."

NATIVE COMMON STOCK: RIGHT: ALIENATION RESTRICTIONS

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

"(h)(1)(A) Except as otherwise provided in this paragraph and in paragraphs (3) and (4) of this subsection of Native common stock of a Regional Corporation issued pursuant to subsection (g) of this section 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 stockholders;

(ii) permit the holder to receive dividends or other distributions from the Regional Corpora-

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tion; and

(iii) vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State of Alaska

"(B) Until the termination of such restrictions by the stockholders under paragraph (2) of this subsection or pursuant to section 7a, Native common stock, inchoate rights thereto, may be—

"(i) sold;

"(ii) pledged;

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

"(iv) assigned in present or future;

"(v) treated as an asset in a bankruptcy estate; or

"(vi) otherwise alienated.

"(C) The limitation contained in subparagraph (B) of this paragraph shall not apply to transfers of Native common stock if such transfers are made to Natives or descendants of Native pursuant to a court decree of separation, divorce or child support or by a stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his or her profession because of holding stock issued under this section.

"(D) Except as provided in section 7a, the restrictions on alienation of Native common stock provided in this paragraph shall remain in effect until such time as the stockholders of a Regional Corporation vote to terminate such restrictions as provided in paragraph (2) of this subsection.

"(2)(A) Except as provided in subparagraph (F) of this paragraph, a Regional Corporation may terminate the restrictions on alienation imposed on its Native common stock by paragraph (1) of this subsection as provided in this paragraph.

"(B) At any time after the date of enactment of this paragraph, a resolution to terminate such restrictions may be adopted by the board of directors on its own motion or pursuant to a stockholders' petition as provided in paragraph (6)(D) of this subsection. A resolution of the board of directors of a Regional Corporation to terminate such restrictions shall be submitted to a vote of the stockholders in accordance with the procedures set forth in paragraph (6) of this subsection.

"(C) A resolution to terminate restrictions adopted pursuant to this paragraph shall make provision for the time of termination, either by the establishment of the date certain or the description of a specific event upon which the restrictions shall terminate.

"(D) The approval of a resolution under this paragraph shall be considered to be an amendment to the articles of incorporation of the Regional Corporation for the purposes of paragraph (6) of this subsection. On the date of termination as established in such resolution, all Native common stock previously issued shall be deemed canceled and shares of stock of the appropriate class shall be issued to each holder of Native Common stock, share for share, subject only to such restrictions as may be provided in an amendment to the articles of incorporation adopted pursuant to paragraph (7) of this subsection or in agreements between the corporation and the individual stockholders.

"(E) The rejection of a resolution adopted pursuant to this paragraph by

the stockholders of a Regional Corporation shall not preclude votes on subsequent resolutions adopted and submitted to a vote pursuant to this paragraph.

"(F) Notwithstanding the provisions of this paragraph, if the board of directors of the Bristol Bay Native Corporation or any Village Corporation in the Bristol Bay region adopts, within one year of the date of enactment of this paragraph, a resolution electing to follow the procedures set forth in section 7a of this Act, the provisions of this paragraph shall not be applicable to such corporation.

"(3)(A) Upon the death of any holder of Native common stock, ownership of such stock shall be transferred in accordance with the last will and testament of such holder or under applicable laws of intestate succession, except that, in the event the deceased stockholder fails to dispose of all of his or her Native common stock by will and if such stockholder has no heirs under applicable laws of intestacy who are Natives or descendants of Natives, such Native common stock shall escheat to the appropriate Regional Corporation.

"(B) In the event that stock would be transferred by devise or inheritance to a person not a Native or a descendant of a Native, the Regional Corporation shall have the right to purchase such stock for its fair market value.

"(4)(A) Notwithstanding the restrictions on alienation imposed by paragraph (1) of this subsection, any Regional Corporation is hereby authorized to amend its articles of incorporation to permit it to purchase and, for that purpose, its stockholders to sell, any or all of its Native common stock then issued and outstanding.

"(B) Payment for such stock shall be made out of—

"(i) unreserved or unrestricted earned surplus of the corporation; or

"(ii) net profits for the fiscal year in which the purchase is being made and for the preceding fiscal year, except when the corporation is unable to pay its debts as they become due in the usual course of business.

"(C) For the purpose of this paragraph, net profits derived from the exploitation or liquidation of timber resources or subsurface estate may be determined without consideration of depletion of those assets resulting from lapse of time, consumption, liquidation, or exploitation.

"(D) Shares of stock purchased pursuant to this paragraph shall become nonvoting treasury stock or may be canceled by the Regional Corporation in accordance with law.

"(E) In the case of each purchase of Native common stock pursuant to this paragraph, the board of directors shall determine a price at which such purchase will be made. Such price, if determined in good faith, shall conclusively be presumed to be fair. In determining such price, the board of directors, at its option, may exclude from such determination the value of the land or any interest therein received by the Regional Corporation pursuant to this Act which is committed by the corporation to Native traditional or cultural uses or is of speculative or unknown value on the date such deter-

mination is made.

"(F) With respect to any purchase under this paragraph, all holders of such Regional Corporation's Native common stock shall be given a fair opportunity to participate in any offer by the corporation to purchase shares of its Native common stock on the same basis as is made available to any holder of such stock.

"(5) Native common stock transferred through inheritance to a person who is not a Native shall not carry voting rights. The lapse of the right to vote in a holder of Native common stock upon a transfer by inheritance or otherwise may be restored by the adoption of an amendment to the articles of incorporation, but only if such shares of stock are held by a Native or a descendant of a Native.

"(6)(A) Notwithstanding any provision of Alaska law, other than those which relate to proxy statement or solicitations which are not inconsistent with this paragraph, and except as provided in section 7a of this Act—

"(i) any amendment to the articles of incorporation of a Regional Corporation authorized by this subsection or subsection (g) of this section;

"(ii) a transfer of assets made pursuant to section 7b;

"(iii) a resolution described in paragraph 2(C) of this subsection; or

"(iv) a resolution described in paragraph (B) of this paragraph;

shall be approved as provided in this paragraph.

"(B) The board of directors shall adopt a resolution setting forth the proposal and directing that it be submitted to a vote at the annual, or a special, meeting of the stockholders. One or more such amendments or resolutions may be submitted to the stockholders and voted upon at one meeting.

"(C) A written or printed notice, setting forth the proposal or summary of the changes to be effected, or the proxy statement and related proxy material if required under applicable law, shall be delivered by hand or sent by first class mail to each stockholder of record entitled to vote not less than fifty nor more than sixty days before the date of the meeting at the address of such stockholder as it appears on the records of the corporation.

"(D) With respect to any amendment or resolution described in subparagraph (A) of this paragraph, if the holders of at least 15 per centum or, in the case of an amendment to terminate restrictions on the alienability of Native common stock, one-third of the outstanding shares of Native common stock entitled to be voted petition the board of directors to adopt and submit such amendment or resolution to the vote of the stockholders, the board of directors shall adopt a resolution to that effect and submit it to the stockholders as provided in this paragraph. The procedural and disclosure requirements pertaining to the solicitation of proxies under State law shall govern solicitation of signatures on any such petition. If the petition meets the aforementioned standards and if—

"(i) the board of directors agrees with such petition, it shall submit the resolution and either the proponent's state-

ment or its own statement in support of the resolution to the stockholders for a vote; or

"(ii) the board of directors disagrees with the petition for any reason, it shall submit the resolution and the proponent's statement to the stockholders and may, at its discretion, submit an opposing statement and/or an alternative resolution.

"(E)(i) An amendment to the articles of incorporation that would have the effect of removing the restrictions on alienation of Native common stock provided in paragraph (1) of this subsection shall be approved if such amendment receives the affirmative vote of at least a majority of the outstanding shares of Native common stock entitled to vote on such amendment.

"(ii) Any other amendment or resolution described in subparagraph (A) of this paragraph shall be approved—

"(a) if voted upon by at least 51 per centum of the votes represented by the capital stock of the Regional Corporation entitled to be voted on such amendment or resolution; and—

"(b) if such amendment or resolution receives the affirmative vote of at least a majority of all votes cast, subject to the right of the board of directors of the Regional Corporation to provide a quorum or vote requirement greater than subclause (a) or (b) of this clause, or both, and to the right of the Regional Corporation in its articles of incorporation to provide a vote by classes of stock for all or any of such actions

"(F) If the result of a stockholder vote under this paragraph is the continuation of the restrictions against alienation of Native common stock, a stockholder who voted in favor of termination of the restriction may demand and receive payment from the corporation for all of his or her shares, but only if, contemporaneously with such vote, the stockholders approve a resolution providing for such right. The procedure established by Alaska law for the exercise of the right of a dissenting stockholder shall be followed, if such right is made available pursuant to this subparagraph.

"(G) A resolution adopted pursuant to subparagraph (F) of this paragraph may provide that Native common stock shall be valued on the basis set forth in section 7a(f)(2) or that the form of payment to dissenting stockholders shall be as provided in section 7a(f)(3).

"(7) Notwithstanding, a stockholder vote to terminate restrictions on alienation of Native common stock under paragraph (2) of this subsection or the expiration of such restrictions pursuant to section 7a, a Regional Corporation, prior to the effective date of such termination, may amend

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its articles of incorporation to impose any restrictions upon the replacement common stock issued pursuant to paragraph 2(D) of this subsection permitted under applicable law as well as restrictions providing for—

“(A) the denial of voting rights to any holder of such replacement common stock who is not a Native or descendant of a Native; and

“(B) the granting to the corporation, or to the corporation and the stockholder's immediate family, on reasonable terms the first right to purchase a stockholder's replacement common stock prior to the sale or transfer of such stock, other than a transfer by inheritance, to any other part, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.”

BRISTOL BAY REGION:

SPECIAL PROVISIONS

SEC. 6. The Alaska Native Claims Settlement Act is further amended by adding a new section as follows:

“SEC. 7a(a) If the Bristol Bay Native Corporation or any Village Corporation located in the Bristol Bay region adopts a resolution as provided in paragraph (2)(F) of subsection 7(h), such corporation may extend the restrictions on alienation of Native common stock as provided in this section.

“(b)(1) Within two years after the election under paragraph (2)(F) of section 7(h) and, if the quorum requirement specified in subsection (e) of this section is not satisfied, annually thereafter, the board of directors of such corporation shall adopt, and submit to a vote of its stockholders, a resolution to amend its articles of incorporation to extend the restrictions on alienation of its Native common stock.

“(2) Such resolution shall provide for an extension of the restrictions for a period of not less than twenty nor more than fifty years.

“(3) If a resolution under paragraph (1) of this subsection is adopted, such corporation may, prior to the expiration of the period of extension or any successor extension period, further extend the restrictions under the provisions of this section.

“(c)(1) If any vote conducted pursuant to subsection (b) of this section is ineffective because of a continuing or repeated lack of quorum as provided in subsection (e) of this section or if the holders of Native common stock defeat a resolution to continue restrictions on alienation, the board of directors shall adopt, and submit to the vote of the stockholders, a resolution to continue restrictions which establishes the date or describes the specific event upon which the restrictions shall terminate.

“(2) If no such resolution is voted upon and approved, the restrictions shall terminate one year from either the date of the vote disapproving the resolution to extend such restrictions or the last date on which a lack of a quorum existed, as the case may be, or on December 18, 1991, whichever date later occurs.

“(3) On the date of termination of such restrictions all Native common

stock of such corporation previously issued shall be deemed canceled and shares of stock of the appropriate class shall be issued to each stockholder, share for share, subject only to such restrictions as may be provided by the articles of incorporation, including any amendment thereto adopted pursuant to section 7(h)(7), or in agreements between the corporation and individual stockholders.

“(d)(1) Notwithstanding any provision of Alaska law, except those relating to stockholders' rights of petition and to proxy statements and solicitations which are not inconsistent with the provisions of this section—

“(A) any amendment to the articles of incorporation of a corporation authorized by this section or subsections 7(g) and 7(h) (4), (5), and (7) of this Act;

“(B) a transfer of assets made pursuant to section 7b;

“(C) a resolution described in subsection (c) of this section; or

“(D) a resolution described in subsection (f)(2) of this section;

shall be approved as provided in this subsection.

“(2) The board of directors shall adopt a resolution setting forth the proposal and directing that it be submitted to a vote at the annual, or a special, meeting of the stockholders. One or more such amendments or resolutions may be submitted to the stockholders and voted upon at one meeting.

“(3) A written or printed notice setting forth the proposal or a summary of the changes to be effected shall be given to each stockholder of record entitled to vote not less than fifty nor more than sixty days before the date of the meeting, either personally or by mail.

“(e)(1) In order for a resolution to be approved under this section, the proposal must be voted upon by at least 51 per centum of the outstanding shares of Native common stock entitled to be voted and must receive the affirmative vote of at least 50 per centum plus one of the shares voted.

“(2) Notwithstanding paragraph (1) of this subsection, the stockholders may require a minimum vote of more than 51 per centum of the outstanding shares of Native common stock entitled to be voted or an affirmative vote greater than 50 per centum of the shares voted, or both, to approve any such proposal.

“(f)(1) If the result of a stockholder vote under this section is the extension of restrictions against alienation or a transfer of assets pursuant to section 7b, a stockholder who voted against the extension or transfer may demand and receive from the corporation the fair market value of his or her shares. Unless longer periods of time are authorized in the bylaws of the corporation, the procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed to the extent such right is made available pursuant to this subsection.

“(2) The stockholders of the corporation may adopt a resolution, concurrent with the vote authorized under subsection (a) of this section, which provides that, in the event dissenters' rights are exercised—

“(A) the Native common stock shall be valued as restricted stock, having the same restrictions for the same period made applicable to the stock by the vote; and/or

“(B) the value of the land or any interest therein received by the corporation pursuant to this Act which—

“(i) is committed by the corporation to Native traditional or cultural uses; and/or

“(ii) is of speculative or unknown value on the date such resolution is adopted; shall be excluded by the stockholder, the corporation and any court in the determination of the fair market value of the shares of Native common stock to be purchased from such stockholder by the corporation; and/or

“(C) payments to each dissenting stockholder shall be made by the corporation through the issuance to such stockholder of a nonnegotiable note in the principal amount of the payment due, which not shall be secured either by—

“(i) a payment bond issued by an insurance company or financial institution;

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

“(iii) a lien upon the real property interests of the corporation valued at 125 per centum or more of the face amount of the note, other than lands or interest therein which are committed to Native traditional or cultural uses and the percentage interest in its timber resources and subsurface estate that would result in the recognition of 'Gross Section 7(i) Revenues' within the meaning of, and pursuant to, article II, section 1(d) of the 7(i) agreement cited in subsection (f)(2) of section 7b of this Act.

“(3) Any note issued pursuant to this subsection shall provide that—

“(A) interest shall be paid semi-annually, beginning as of the date the corporation elected to extend stock restrictions on Native common stock or transfer assets pursuant to section 7b of this Act, 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 any undistributed interest shall be payable to the former stockholder or his or her heirs or devisees—

“(i) at any time, at the option of the corporation; or

“(ii) if not so called, on December 18, 1991, or, if the restrictions on Native common stock

otherwise would have expired on a later date, on such date or five years after the date of election, whichever comes first, or, if the transfer of assets occurs after December 18, 1991, then five years after the date of such transfer.”

TRANSFER OF ASSETS: QUALIFIED TRANSFEREE ENTITY

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

“SEC. 7b. (a) Any Native Corporation or the stockholders of a Native Corporation which has been dissolved involuntarily under applicable law is hereby authorized to convey any or all of its assets, including the title to the surface or subsurface of land, to a qualified transferee entity as provided in this section. In cases where a Native Corporation has been involuntarily dissolved under State law, a State court of appropriate jurisdiction, upon petition of no less than twenty-five of the former stockholders of such corporation, may order the transfer of real property assets and such other assets remaining after satisfaction of outstanding debts upon an affirmative vote of individuals who were shareholders in the dissolved corporation on a resolution as provided in section 7(h)(6) or 7(c) without requiring that the resolution be adopted by the Board of Directors.

“(b) The conveyance of such assets shall be as provided in a resolution, including a provision for the payment of consideration or no consideration as desired, adopted by the board of directors of such corporation and submitted to a vote of its shareholders as provided in section 7(j)(6) or section 7a of this Act, as the case may be.

“(c) An entity shall be qualified to accept a transfer of assets conveyed pursuant to this section if it—

“(1) is organized pursuant to, or recognized by, State or Federal law;

“(2) has a membership composed of persons whose interest in the entity is nontransferable;

“(3) provides membership for every person who holds Native common stock in the corporation making the transfer of assets on the day before the date of such transfer; and

“(4) except as provided in paragraph (3), accepts as new members only Natives or descendants of Natives.

“(d) Notwithstanding any provision of State or Federal law, a qualified transferee entity is authorized to—

“(1) by a vote of its members;

“(A) limit its membership to Natives or descendants of Natives; and

“(B) admit to membership non-Natives only for the purpose of complying with paragraph (3) of subsection (c) of this section;

“(2) distribute cash and other assets to its members, except that such entity shall not convey fee title to land or interest therein unless authorized or required by section 14(c) or 21(j) of this Act; and

“(3) exchange lands or interest therein pursuant to the provisions of section 22(f) of this Act and section 1302(h)

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of the Alaska National Interest Lands Conservation Act.

"(e) The provisions of subsections (d) and (e) of section 21 of this Act shall continue to apply to any lands or interests therein conveyed by a Native Corporation to a qualified transferee entity pursuant to this section.

"(f)(1) Any revenues subject to distribution under section 7(i) of this Act derived from assets conveyed pursuant to this section shall remain subject to 7(i) to the same extent such revenues would have been subject if the conveyance had not occurred.

"(2) A Regional Corporation shall not convey assets subject to section 7(i) to more than one qualified transferee entity. Prior to receiving a conveyance of an asset subject to section 7(i), a qualified transferee entity shall agree in writing—

"(A) to be bound by the provisions of the agreement dated June 29, 1982, among and between the parties to Aleut Corporation et al. against Arctic Slope Regional Corporation (Civ. Act. A75-53 D. Ak.); and

"(B) to waive its sovereign immunity, if any, with respect to claims arising under section 7(i) or this section.

"(3) The Regional corporation or, in the case of its dissolution, another single entity designated by its stockholders or the United States district court, as appropriate, shall be responsible for administering the provisions of section 7(i) and the June 29, 1982, agreement with respect to assets subject to section 7(i) conveyed by such corporation pursuant to this section.

"(4) After the conveyance of an asset subject to section 7(i) by a Regional Corporation, such asset shall be security for the payment of such corporation or its successor entity of all revenues which the corporation is obligated to distribute to other Regional Corporations pursuant to section 7(i).

"(g)(1) If a resolution conveying assets is approved by a stockholder vote pursuant to subsection (b) of this section, any stockholder who voted against the resolution may demand and receive payment from the corporation for all of his or her shares, but only if, concurrent with such vote, the stockholders of the Native Corporation adopt a resolution expressly providing for such right.

"(2) The procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed if such right is made available pursuant to this subsection.

"(3) For the purpose of this section, a resolution establishing dissenters' rights may provide that the Native common stock shall be valued on the basis set forth in section 7a(f)(2) and that the form of payment to dissenting stockholders shall be as provided in section 7a(f)(3)."

DISCLAIMER: TRIBAL GOVERNMENT

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding a new section as follows:

"SEC. 7c No provision of the Alaska Native Claims Settlement Act Amendments of 1986 shall be construed as enlarging or diminishing or in any way affecting the scope of governmental powers, if any, of an Alaska Native village entity, including entities

organized under the Act of June 18, 1934 (48 Stat. 987), as amended or Traditional Councils."

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding a new section as follows:

"SEC. 7d The Aleut Corporation, Cook Inlet Region, Inc., and Koniag, Inc., and any Village Corporation within the Aleut and Cook Inlet regions may, by a vote of its board of directors within one year after the effective date of this section, elect to comply with the provision of section 7a with respect to a stockholder vote on the question of whether to continue restrictions on alienation of Native common stock imposed by paragraph (1) of section 7(h) beyond December 18, 1991."

VILLAGE AND URBAN CORPORATIONS: NATIVE GROUPS

SEC. 10 Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c)(1) The provisions of subsections (g), (h), and (o) of section 7 and of section 7a of this Act relating to Regional Corporations shall apply in all respects to Village Corporations, Urban Corporations and Native groups, except that—

"(A) audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the committee on Energy and Natural Resources of the Senate; and

"(B) subject to the provisions of paragraph (2) of this subsection and section 7a, restrictions on the alienation of Native common stock of such corporations, inchoate rights thereto, and any dividends paid or distributions made with respect thereto shall continue after December 18, 1991."

"(2) The restrictions on alienation of Native common stock of Village Corporations, Urban Corporations and incorporated Native groups may be terminated or extended by the adoption of an amendment to their articles of incorporation to such effect pursuant to the provisions of paragraphs (2) and (6) of subsection 7(h) or of section 7a, as the case may be, except that—

"(A) with respect to action under section 7(j), only one such vote may be held prior to December 18, 1991 and only once annually thereafter; and

"(B) with respect to action under section 7a, votes shall be held as provided in subsection (b)(1) of section 7a."

CONSTITUTIONALITY: UNITED STATES JURISDICTION

SEC. 11. Section 10 (43 U.S.C. 1609) is amended by adding the following new subsection:

"(c)(1) The United States District court for the District of Alaska is vested with exclusive original jurisdiction over any action challenging the constitutionality of any provision of the Alaska Native Claims Settlement Act Amendments of 1986. Such action shall be heard and determined by a court of three judges as provided in section 2284 of title 28, United States Code, with a direct appeal from any final judgment to the United States Supreme Court.

"(2) It being the express intention and direction of Congress that in no

circumstances shall enactment of this Act result in any liability to the United States, the court shall not enter a money judgement against the United States in fashioning appropriate relief upon a determination that any of such sections violates the Fifth Amendment to the United States Constitution."

SUBSURFACE CONVEYANCE TO VILLAGE ENTITY

SEC. 12. Section 14 (43 U.S.C. 1613) is amended by adding the following new subsection:

"(i)(1) A Regional corporation may convey any subsurface estate owned by such corporation to a village entity which acquired or currently owns the surface estate pursuant to this Act.

"(2) Notwithstanding any conveyance pursuant to paragraph (1) of this subsection, the Regional Corporation shall continue to receive the thirty percent of the revenues from any development of the subsurface estate it would have retained had there been such conveyance and the remaining seventy percent of such revenues shall be distributed in accordance with section 7(i).

"(3) Any conveyance under this subsection shall be subject to the provisions of section 7b as if the village entity were a qualified transferee entity. The document or documents effecting such conveyance shall be recorded by the Regional Corporation, together with copies of section 7b and this subsection, in the land records of the appropriate recording district.

"(4) the village entity to which any subsurface estate is conveyed pursuant to this subsection may not convey or otherwise transfer all or any part of such subsurface estate to any other entity without the express consent to the transfer Regional Corporation."

REAL PROPERTY INTEREST: IMMUNITIES

SEC. 13. Paragraph (1) of subsection 21(d) (43 U.S.C. 1620(d)(1)) is amended to read as follows:

"(1)(A) All land and interests therein conveyed pursuant to this Act, to any Native individual, Native group, Village or Regional Corporation, or a corporation established pursuant to section 14(h)(3) of this Act shall be, so long as such land and interest therein are not developed or leased to third parties or are used solely for purposes of exploration, entitled from the date of their conveyance to immunity from—

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

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

"(iii) judgment resulting from any claim based upon or arising under title 11 of the United States Code relating to bankruptcy (or any successor statute), other insolvency or moratorium laws, or other laws affecting creditors' rights generally;

"(iv) unless such immunity is waived by the corporation in a valid and binding contract executed prior to the commencement of such proceedings, judgment in any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or Native group or any officer, director, or stockholder of any

such corporation or group, and;

"(v) involuntary distribution or conveyance related to the involuntary dissolution of the Native Corporation."

"(B) For the purposes of this paragraph, lands shall not be considered to be developed solely as a result of construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further the subsistence or other customary or traditional uses of such land.

"(C) Immunities provided for in this paragraph shall be in addition to those immunities or other benefits to which such lands or interests therein may be entitled under the Alaska National Interest Lands Conservation Act, but shall not apply to any judgment in any action at law or equity or to any arbitration award arising out of any claim regarding revenue sharing under section 7(i) of this Act.

"(D) Land to which this paragraph applies and lands conveyed pursuant to section 7b of this Act shall be subject to condemnation for public purposes in accordance with the provisions of applicable State law.

"(E) Except as provided in section 14(c)(3), no trustee, receiver or custodian vested under applicable Federal or State law with any right, title or interest of any Native Corporation or Native group may assign or lease to a third party any land subject to this paragraph which has not theretofore been developed or lease, or commerce development or use of the land other than for purposes of exploration, and such trustee, receiver, or custodian may not convey any right, title, or interest in land interests therein protected under this paragraph to any third party, except pursuant to a judgment or arbitral award regarding revenue sharing under section 7(i)."

CONFORMING AMENDMENT: SECTION 21

SEC. 14. Subsection (f) of section 21 (43 U.S.C. 1620(f)) is amending by striking the phrase "Until January 1, 1992" and inserting, in lieu thereof, the phrase "Until such time as the limitations upon alienation of Native common stock have been removed pursuant to section 7a of this Act"

SEVERABILITY CLAUSE

SEC. 15. Section 27 (85 Stat. 688) is amended to read as follows:

"SEC. 27. The provisions of this Act, as amended, are severable and, if any provision of the Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision."

CORPORATIONS EXEMPT FROM SECURITIES LAWS

SEC. 16. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SEC. 28. (a)(1) Any corporation organized pursuant to this Act shall be exempt from the provisions 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), as amended, through the earlier of the date after—

"(A) the date on which the corporation issues any shares of stock which will not be issued solely to Natives or descendants of Natives or to

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entities established for the sole benefit of Natives or descendants of Natives; or

"(B) the date on which the corporation removes the limitations on alienation of Native common stock as provided for in section 7(h)(2) or the date on which such restrictions terminate under section 7a of this Act.

"(2) Nothing in this section shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts.

"(b)(1) Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the

information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.

"(2) For the purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 after the date determined pursuant to subsection (a) of this section, holders of Native common stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(c) The provisions of the Investment Company Act of 1940 shall not, in any event, apply to any corporation organized pursuant to this Act prior to January 1, 2001."

**FEDERAL PROGRAMS:
MINORITY CORPORATION**
SEC. 17. Section 29 (43 U.S.C. 1626)

is amended by adding the following new subsection:

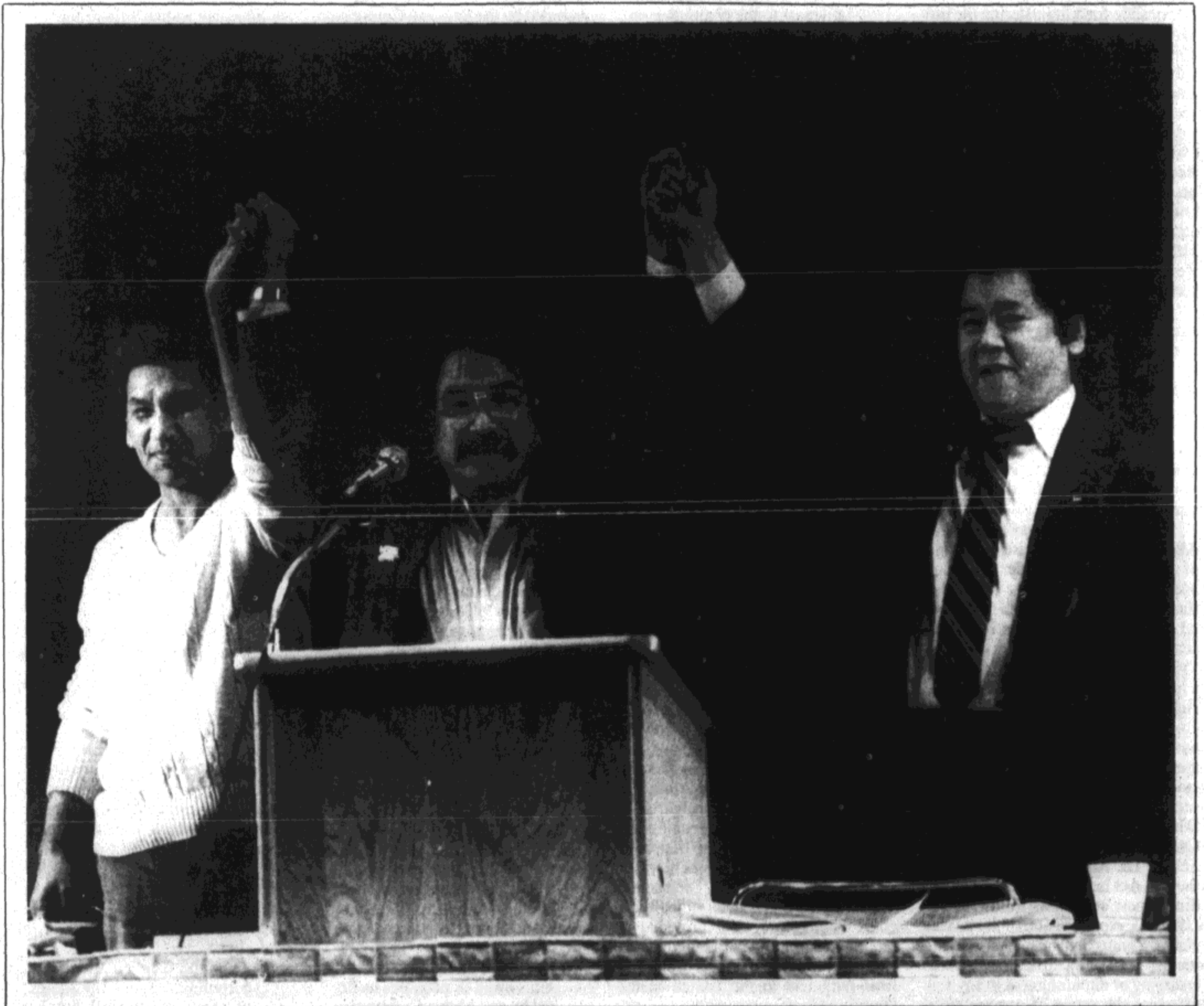
"(c) In determining the eligibility of any household or individual Native or descendant of a Native to participate in the Food Stamp program, receive assistance under the Social Security Act of financial assistance or benefits available under any other Federal or federally assisted program otherwise available to the Native people of Alaska as citizens of the United States and of the State of Alaska, any compensation, remuneration, revenue, stock, land, or other benefits received by any individual, any household or any member of such household under this Act, including land received from such individual's Native Corporation or Native group organized under this Act, shall be disregarded and shall not be considered as a

resource or otherwise utilized as a basis for making such determination.

"(d) Until such time as less than 50 percentum of the voting power of a Native Corporation is represented by shares of outstanding Native common stock or any other securities of such corporation held by Natives or descendants of Natives entitled to vote, such Native Corporation for all purposes of Federal law shall be considered a corporation owned and controlled by Alaska Natives."

**CONFORMING AMENDMENT:
SECTION 30**

SEC. 18. Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking the phrase "prior to December 19, 1991" and inserting, in lieu thereof, the phrase "while the Native common stock of all corporations subject to merger or consolidation remain subject to restraints on alienation".



A FIRST FOR AFN: Charlie Johnson, AFN '84-'85 Chairman raises the arms of new co-chairmen Glenn Fredericks and Oliver Leavitt in a victory salute.

photo by Bob Koweluk