The Stockholder:

Rights and Responsibilities

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(An Excerpt)

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VOTING RIGHTS

Even though shareholders own a corporation, their powers to control it are limited. Since it would be impractical for all the shareholders to manage a corporation, state law gives this responsibility to its directors. Shareholders vote only on the most significant policy issues. For example, they elect the board of directors, but the directors hire the officers of the corporation.

Bylaws are one of the basic issues on which shareholders sometimes vote. According to Alaskan law, whether shareholders can vote on the bylaws is determined by the articles of incorporation. The regions have gone various paths on this point with some of them allowing the shareholders to initially vote on, and later to amend, the bylaws, while other corporations have reserved this right to the board of directors. Bylaws are the internal rules of the corporation which define the relationships and thus the distribution of power among the shareholders, the board of directors, and the officers. Among other things, bylaws specify when annual meetings are to be held, how notices of such meetings are to be given, and how many directors are to be elected. A shareholder can obtain a copy of his corporation's bylaws by requesting them from the corporation's offices.

The Act states that the bylaws of a regional corporation must be approved by the Secretary of the Interior. However, neither amendments to the regional bylaws, nor the bylaws and amendments of the village corporations require the Secretary's approval.

At an annual meeting it is the right of the shareholders to elect the board of directors. The boards make long-range policy and are responsible for hiring the officers to run the day to day affairs of the corporation. Most often it is the board which makes the important decisions about the allocation of corporate resources and generally its election is of the greatest interest to the shareholders.

The power of the shareholders to elect the directors is also the power to remove them, usually by waiting for the next election. Shareholders may remove a director or the entire board if there are legal grounds for removal. This sometimes means that shareholders must go into court and prove fraud, incompetency, or dishonesty by a director in office. Shareholders have no power to remove officers at a shareholders' meeting. Their only control is indirectly through the board of directors.

Shareholders usually meet once a year for an annual meeting with the time, place, and the provisions for notifying the shareholders set by the bylaws. At the meeting shareholders hear reports as to the financial status of the corporation from the officers in addition to reports on general policy from the board of directors. Then elections for the board of directors are held. After this shareholders consider, in order to approve or disapprove, various shareholder resolutions. These resolutions, suggested by one shareholder or a group, express to the directors and officers the will of the proponents. If the shareholders are particularly concerned over one business venture of the corporation, a shareholder resolution is one way to express this feeling. However,

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the resolutions are only advisory and do not bind the directors, and resolutions on the "day to day" matters of the corporation are improper. That is, shareholder resolutions would be improper as to which office supplier should sell equipment to the corporation. Even so, shareholders retain the right to advise the board through resolutions on important policy questions. Generally the corporation is obligated to circulate any proposed shareholder resolution if the corporation receives it in advance of the shareholder annual meeting.

Finally, shareholders must vote on any extraordinary corporate matters. Any sale of a substantial part of the corporation's assets, such as a major portion of its land, cannot take place without shareholder approval. The shareholders also have ultimate control over the termination of the corporation.

How do the shareholders vote? The owner of one share of stock is entitled to one vote, and he may vote on every matter brought before the shareholders. Generally a majority vote on any issue will mean shareholder approval. Since shareholders are prohibited by the Settlement Act from selling their shares for twenty years, no shareholder will have substantially more votes than any other shareholder. However, there are ways for shareholders with common interests to band together in order to act in a unified manner. Usually this is done by a solicitation of proxies. One shareholder will circulate forms which set forth his position on an issue, and which ask other shareholders to sign and return them. At the annual meeting, the shareholder can vote his shares and all of the proxies which he has received as a block. Any shareholder attempting to unify shareholder opinion should know that proxy solicitation is controlled by the Securities and Exchange Commission whose regulations require extensive reporting about the proxies. "Pooling agreements" allow shareholders to decide in advance of meetings how they will vote as a block.

Proxies, and to a certain extent pooling agreements, suffer from inherent limitations. Proxies are revocable at any time by the shareholder who signed away his right to his vote unless coupled with an interest, i.e., one shareholder paid the other shareholder for his vote. Also, the cost of proxy solicitation may be enormous. The question arises as to whether corporate funds may be used to defray cost of proxy solicitation. If the proxy solicitation leads to control of the corporation, then corporation money can be used to cover the cost. If not, the loser must bear the cost of the fight. . .