

the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 33—ALASKA NATIVE CLAIMS SETTLEMENT

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§ 1601. Congressional findings and declaration of policy

Congress finds and declares that—

(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;

(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska;

(c) no provision of this chapter shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State or Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska; the Secretary is authorized and directed, together with other appropriate agencies of the United States Government, to make a study of all Federal programs primarily designed to benefit Native people and to report back to the Congress with his recommendations for the future management and operation of these programs within three years of December 18, 1971;

(d) no provision of this chapter shall constitute a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organizations, or any tribe, band, or identifiable group of American Indians;

(e) no provision of this chapter shall effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438¹ of title 10 except as specifically provided in this chapter;

(f) no provision of this chapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this chapter; and

(g) no provision of this chapter shall be construed to terminate or otherwise curtail the activities of the Economic Development Administration or other Federal agencies conducting loan or loan and grant programs in Alaska. For this purpose only, the terms "Indian reservation" and "trust or restricted Indian-owned land areas" in Public Law 89-136, the Public Works and Economic Development Act of 1965, as amended [42 U.S.C. 3121 et seq.], shall be interpreted to include lands granted to Natives under this chapter as long as such lands remain in the ownership of the Native villages or the Regional Corporations.

(Pub. L. 92-203, § 2, Dec. 18, 1971, 85 Stat. 688.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 7434 of title 10, referred to in subsec. (e), was repealed by Pub. L. 104-66, title I, §1051(g), Dec. 21, 1995, 109 Stat. 716.

The Public Works and Economic Development Act of 1965, referred to in subsec. (g), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-452, §1(a), Dec. 10, 2004, 118 Stat. 3575, provided that: "This Act [amending sections 1611, 1613, 1617, 1621, 1629g, and 1635 of this title, enacting provisions set out as notes under sections 852, 1602, 1611, 1617, and 1635 of this title, and amending provisions set out as notes under section 852 of this title and preceding section 21 of Title 48, Territories and Insular Possessions] may be cited as the 'Alaska Land Transfer Acceleration Act'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-283, §1, Oct. 6, 2000, 114 Stat. 867, provided that: "This Act [enacting section 1629h of this title and provisions set out as a note under section 1629h of this title] may be cited as the 'Kake Tribal Corporation Land Transfer Act'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-333, §14, Oct. 31, 1998, 112 Stat. 3136, provided that: "This Act [amending sections 1606, 1611, 1621, 1626, 1629e, 1634, and 1636 of this title and section 3197 of Title 16, Conservation, and enacting provisions set out as a note under section 3198 of Title 16] may be cited as the 'ANCSA Land Bank Protection Act of 1998'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-415, §1, Oct. 14, 1992, 106 Stat. 2112, provided that: "This Act [amending sections 1606, 1617, 1620, 1621, 1626, and 1634 of this title and section 3198 of Title 16, Conservation, and enacting provisions set out as notes under section 852 of this title and section 539 of Title 16] may be cited as the 'Alaska Land Status Technical Corrections Act of 1992'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-241, §1(a), Feb. 3, 1988, 101 Stat. 1788, provided that: "This Act [enacting sections 1629b to 1629e of this title, amending sections 1602, 1606, 1607, 1620, 1625 to 1627, and 1636 of this title, section 78m of Title 15, Commerce and Trade, and section 1702 of Title 30, Mineral Lands and Mining, and enacting provisions set out as notes under this section and under section 1702 of Title 30] may be cited as the 'Alaska Native Claims Settlement Act Amendments of 1987'."

SHORT TITLE

Pub. L. 92-203, §1, Dec. 18, 1971, 85 Stat. 688, provided: "That this Act [enacting this chapter] may be cited as the 'Alaska Native Claims Settlement Act'."

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as modifying, etc., any provision of this chapter, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

Pub. L. 92-203, §26, Dec. 18, 1971, 85 Stat. 715, provided that: "To the extent that there is a conflict between any provision of this Act [enacting this chapter] and any other Federal laws applicable to Alaska, the provisions of this Act shall govern."

SEVERABILITY

Pub. L. 92-203, §27, Dec. 18, 1971, 85 Stat. 716, as amended by Pub. L. 100-241, §13, Feb. 3, 1988, 101 Stat.

1810, provided that: "The provisions of this Act, as amended [enacting this chapter], and the Alaska Native Claims Settlement Act Amendments of 1987 [Pub. L. 100-241, see Short Title of 1988 Amendment note above] 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."

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Pub. L. 100-241, §2, Feb. 3, 1988, 101 Stat. 1788, provided that: "The Congress finds and declares that—

"(1) the Alaska Native Claims Settlement Act [this chapter] 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

"(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 [see Short Title of 1988 Amendment note above] 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."

JUDICIAL REVIEW

Pub. L. 100-241, §16, Feb. 3, 1988, 101 Stat. 1813, provided that:

"(a) STATUTE OF LIMITATIONS.—(1) Notwithstanding any other provision of law, a civil action that chal-

lenges the constitutionality of an amendment made by, or other provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) [see Short Title of 1988 Amendment note above] shall be barred unless filed within the periods specified in this subsection.

“(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 [43 U.S.C. 1606(g)(1)(B), (2)(C)(ii)]; or

“(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections [sic] (c) or (d) of section 37 of such Act [43 U.S.C. 1629c(c), (d)]; 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 [Feb. 3, 1988].

“(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

Pub. L. 100-241, §17, Feb. 3, 1988, 101 Stat. 1814, provided that:

“(a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) [see Short Title of 1988 Amendment note above], 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 [25 U.S.C. 461 et seq.]) 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.

“(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.”

§ 1602. Definitions

For the purposes of this chapter, the term—

(a) “Secretary” means the Secretary of the Interior;

(b) “Native” means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlaktla¹ Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final;

(c) “Native village” means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of this title, or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives;

(d) “Native group” means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality;

(e) “Public lands” means all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act, as amended (72 Stat. 341, 77 Stat. 223), or identified for selection by the State prior to January 17, 1969;

(f) “State” means the State of Alaska;

(g) “Regional Corporation” means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of this chapter;

(h) “Person” means any individual, group, firm, corporation, association, or partnership;

(i) “Municipal Corporation” means any general unit of municipal government under the laws of the State of Alaska;

(j) “Village Corporation” means an Alaska Native Village 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 a Native village in accordance with the terms of this chapter.²

(k) “Fund” means the Alaska Native Fund in the Treasury of the United States established by section 1605 of this title;

¹ So in original. Probably should be “Metlakaatla”.

² So in original. The period probably should be a semicolon.