

(d) Wholly owned subsidiaries; Settlement Trusts; voluntary registration as Investment Company

(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 per centum of the equity of the subsidiary.

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

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

(Pub. L. 92-203, §28, as added Pub. L. 94-204, §3, Jan. 2, 1976, 89 Stat. 1147; amended Pub. L. 100-241, §14, Feb. 3, 1988, 101 Stat. 1811.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsecs. (a) and (d), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Securities Act of 1933 (48 Stat. 74), referred to in subsec. (a), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsecs. (a) and (c), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

1988—Pub. L. 100-241 amended section generally. Prior to amendment, section read as follows: “Any corporation organized pursuant to this chapter shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789) [15 U.S.C. 80a-1 et seq.], the Securities Act of 1933 (48 Stat. 74) [15 U.S.C. 77a et seq.], and the Securities Exchange Act of 1934 (48 Stat. 881), as amended [15 U.S.C. 78a et seq.], through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. 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.”

CONSTRUCTION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT WITH PUB. L. 94-204

Pub. L. 94-204, §18, Jan. 2, 1976, 89 Stat. 1156, provided that: “Except as specifically provided in this Act [enacting this section and sections 1626 and 1627 of this title, amending sections 1615, 1616, 1620 and 1621 of this title, and enacting provisions set out as notes under this section and sections 1604, 1605, 1611, 1613, and 1618

of this title], (i) the provisions of the Settlement Act [this chapter] are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.”

§ 1626. Relation to other programs

(a) Continuing availability of otherwise available governmental programs

The payments and grants authorized under this chapter constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

(b) Supplemental nutrition assistance program

Notwithstanding section 5(a) and any other provision of the Food and Nutrition Act of 2008 (78 Stat. 703), as amended [7 U.S.C. 2011 et seq.], in determining the eligibility of any household to participate in the supplemental nutrition assistance program, any compensation, remuneration, revenue, or other benefit received by any member of such household under this chapter shall be disregarded.

(c) Eligibility for need-based Federal programs

In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 1602(r) of this title) to—

(1) participate in the supplemental nutrition assistance program,

(2) receive aid, assistance, or benefits, based on need, under the Social Security Act [42 U.S.C. 301 et seq.], or

(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

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

(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock) or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 1606(h) of this title until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution;

(C) a partnership interest;

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

(E) an interest in a settlement trust.

(d) Federal Indian programs

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

(e) Minority and economically disadvantaged status

(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corpora-

tion owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

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

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

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

(3) No provision of this subsection shall—

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

(B) supersede any such less restrictive standards in existence on February 3, 1988.

(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

(B) Contracting with an entity defined in subsections¹ (e)(1) or (e)(2) of this section or section 1452(c) of title 25 shall be credited towards the satisfaction of a contractor's small or small disadvantaged business subcontracting goals under section 502 of P.L. 100-656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit.

(C) Any entity that satisfies subsection (e)(1) or (e)(2) of this section that has been certified under section 637 of title 15 is a Disadvantaged Business Enterprise for the purposes of Public Law 105-178.

(f) Omitted

(g) Civil Rights Act of 1964

For the purposes of implementation of the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.], a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class of entities excluded from the definition of "employer" by section 701(b)(1) of Public Law 88-352 (78 Stat. 253), as amended [42 U.S.C. 2000e(b)(1)], or successor statutes.

(Pub. L. 92-203, §29, as added Pub. L. 94-204, §4, Jan. 2, 1976, 89 Stat. 1147; amended Pub. L.

100-241, §15, Feb. 3, 1988, 101 Stat. 1812; Pub. L. 102-415, §§10, 11, Oct. 14, 1992, 106 Stat. 2115; Pub. L. 105-333, §5, Oct. 31, 1998, 112 Stat. 3131; Pub. L. 107-117, div. B, §702, Jan. 10, 2002, 115 Stat. 2312; Pub. L. 107-206, title III, §3003, Aug. 2, 2002, 116 Stat. 924; Pub. L. 110-234, title IV, §4002(b)(1)(A), (C), (2)(GG), May 22, 2008, 122 Stat. 1095, 1096, 1098; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(A), (C), (2)(GG), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (b), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. Section 5(a) of the Act is classified to section 2014(a) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in subsec. (c)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 502 of P.L. 100-656, referred to in subsec. (e)(4)(B), is section 502 of title V of Pub. L. 100-656, Nov. 15, 1988, 102 Stat. 3881, which amended section 644(g) of Title 15, Commerce and Trade.

Public Law 105-178, referred to in subsec. (e)(4)(C), is Pub. L. 105-178, June 9, 1998, 112 Stat. 107, as amended, known as the Transportation Equity Act for the 21st Century. The Disadvantaged Business Enterprise provisions of the Act were contained in section 1101(b), formerly set out as a note under section 101 of Title 23, Highways. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 101 of Title 23 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (g), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (§2000a et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Subsec. (f) amended section 1702(3), (4) of Title 30, Mineral Lands and Mining, and provided for effective date of such amendment.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-246, §4002(b)(1)(C), (2)(GG), which directed substitution of "Food and Nutrition Act of 2008" for "Food Stamp Act", was executed by making the substitution for "Food Stamp Act of 1964" to reflect the probable intent of Congress.

Pub. L. 110-246, §4002(b)(1)(A), (2)(GG), substituted "supplemental nutrition assistance program" for "food stamp program".

Subsec. (c)(1). Pub. L. 110-246, §4002(b)(1)(A), (2)(GG), which directed substitution of "supplemental nutrition assistance program" for "food stamp program", was executed by making the substitution for "Food Stamp Program" to reflect the probable intent of Congress.

2002—Subsec. (e)(4). Pub. L. 107-117 added par. (4).

Subsec. (e)(4)(B). Pub. L. 107-206, §3003(1), substituted "subsections (e)(1) or (e)(2)" for "subsection (e)(2)" and directed the substitution of "small or small disadvantaged business subcontracting goals under section 502 of P.L. 100-656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit" for "obligations under section 7 of P.L. 87-305", which was executed by making the substitution for "obliga-

¹ So in original. Probably should be "subsection".

tions under section 7 of Public Law 87-305", to reflect the probable intent of Congress.

Subsec. (e)(4)(C). Pub. L. 107-206, §3003(2), substituted "subsection (e)(1) or (e)(2)" for "subsection (e)(2)".

1998—Subsec. (c)(3)(A). Pub. L. 105-333, §5(1), inserted "and on bonds received from a Native Corporation".

Subsec. (c)(3)(B). Pub. L. 105-333, §5(2), inserted before semicolon at end "or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 1606(h) of this title until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution".

1992—Subsec. (e)(1), (2). Pub. L. 102-415, §10, inserted "and economically disadvantaged" after "minority".

Subsec. (g). Pub. L. 102-415, §11, substituted "of entities excluded from the definition of 'employer' by" for "defined in" and "section 701(b)(1)" for "section 701(b)".

1988—Subsecs. (c) to (g). Pub. L. 100-241 added subsecs. (c) to (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (C), (2)(GG) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

§ 1627. Merger of Native corporations

(a) Applicability of State law

Notwithstanding any provision of this chapter, any corporation created pursuant to section 1606(d), 1607(a), 1613(h)(2), or 1613(h)(3) of this title within any of the twelve regions of Alaska, as established by section 1606(a) of this title, may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 1606(d), 1607(a), 1613(h)(2), or 1613(h)(3) of this title.

(b) Terms and conditions of merger; rights of dissenting shareholders; rights and liabilities of successor corporation

Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after January 2, 1976: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this chapter effected while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.¹ Upon the effectiveness of any such mergers or consolidations the

corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this chapter, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this chapter as are applicable to the corporations and shareholders which and who participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 1618(b) of this title merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 1605(c), 1606(m), 1611(b), 1613(h)(8), and 1606(i) of this title.

(c) Alteration or elimination of dividend rights

Notwithstanding the provisions of section 1606(j) or (m) of this title, in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 1606(j) or (m) of this title. In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 1606(j) or (m) of this title as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

(d) Approval of merger or consolidation by shareholders

Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

(e) Conveyance of right to withhold consent to mineral exploration, development, etc., as part of merger or consolidation

The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 1613(f) of this title to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.

(Pub. L. 92-203, §30, as added Pub. L. 94-204, §6, Jan. 2, 1976, 89 Stat. 1148; amended Pub. L. 100-241, §12(c), Feb. 3, 1988, 101 Stat. 1810.)

¹ So in original.