

(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

(b) Relationship to State procedure

(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

(c) Valuation of stock

(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

(A) the Settlement Common Stock shall be valued as restricted stock; and

(B) the value of—

(i) any land conveyed to the corporation pursuant to section 1613(h)(1) of this title or any other land used as a cemetery; and

(ii) the surface estate of any land that is both—

(I) exempt from real estate taxation pursuant to section 1636(d)(1)(A) of this title, and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16); or

(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

(d) Form of payment

(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

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

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

(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

(i) land conveyed to the corporation pursuant to section 1613(h)(1) of this title, or any other land used as a cemetery;

(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 1606(i) of this title; or

(iii) the surface estate of land that is both—

(I) exempt from real estate taxation pursuant to section 1636(d)(1)(A) of this title; and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16),

unless the Board of Directors¹ of the corporation acts so as to make such lien applicable to such surface estate.

(2) A note issued pursuant to paragraph (1) shall provide that—

(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) occurred, 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 accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

(e) Dividend adjustment

(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.

(Pub. L. 92-203, §38, as added Pub. L. 100-241, §9, Feb. 3, 1988, 101 Stat. 1802.)

§ 1629e. Settlement Trust option

(a) Conveyance of corporate assets

(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 1629b of this title).

¹ So in original. Probably should not be capitalized.

(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

(3) Conveyances made pursuant to this subsection—

(A) shall be subject to applicable laws respecting fraudulent conveyance and creditors rights; and

(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if—

(i) the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable; and

(ii) a shareholder vote on such transfer is required by section 1629b(a)(4) of this title.

(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

(b) Authority and limitations of a Settlement Trust

(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

(A) operate as a business;

(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation or the land is conveyed for a homestead 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); or

(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

(A) appoint the trustees of the trust, and

(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a Settlement Trust. An appointment or removal of a trustee in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(3) A Native Corporation that has established a Settlement Trust may expand the class of beneficiaries to include holders of Settlement

Common Stock issued after the establishment of the trust without compensation to the original beneficiaries.

(4) A Settlement Trust shall not be held to violate any laws against perpetuities.

(c) Savings

(1) The provisions of this chapter shall continue to apply to any land or interest in land received from the Federal Government pursuant to this chapter and later conveyed to a Settlement Trust as if the land or interest in land were still held by the Native Corporation that conveyed the land or interest in land.

(2) No timber resources subject to section 1606(i) of this title conveyed to a Settlement Trust shall be sold, exchanged, or otherwise conveyed except as necessary to—

(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

(B) prevent or suppress fire; or

(C) ensure public safety.

The revenue, if any, from such timber harvests shall be subject to section 1606(i) of this title as if such conveyance had not occurred.

(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 1606(i) of this title) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 1606(i) of this title as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a), a conveyance to a Settlement Trust that does not—

(A) render it—

(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

(ii) insolvent; or

(B) occur when the Native Corporation is insolvent;

the assets so conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.

(8) A beneficiary's interest in a settlement trust and the distributions thereon shall be subject to creditor action (including without limitation, levy attachment, pledge, lien, judgment execution, assignment, and the insolvency and bankruptcy laws) only to the extent that Settlement Common Stock and the distributions thereon are subject to such creditor action under section 1606(h) of this title.

(Pub. L. 92-203, § 39, as added Pub. L. 100-241, § 10, Feb. 3, 1988, 101 Stat. 1804; amended Pub. L. 105-333, § 13, Oct. 31, 1998, 112 Stat. 3135; Pub. L. 106-559, title III, § 302, Dec. 21, 2000, 114 Stat. 2782; Pub. L. 108-7, div. F, title III, § 337(b), Feb. 20, 2003, 117 Stat. 278; Pub. L. 109-221, title I, § 101(b), May 12, 2006, 120 Stat. 337.)

AMENDMENTS

2006—Subsec. (a)(3)(B). Pub. L. 109-221, § 101(b)(1), made technical correction to directory language of Pub. L. 108-7, § 337(b). See 2003 Amendment note below.

Subsec. (a)(3)(B)(ii). Pub. L. 109-221, § 101(b)(2), substituted “section 1629b(a)(4) of this title” for “(a)(4) of section 1629b of this title”.

2003—Subsec. (a)(3)(B). Pub. L. 108-7, § 337(b), as amended by Pub. L. 109-221, § 101(b)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.”

2000—Subsec. (c)(8). Pub. L. 106-559 added par. (8).

1998—Subsec. (b)(1)(B). Pub. L. 105-333 inserted “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” after “settlor corporation”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-221 effective Feb. 20, 2003, see section 101(c) of Pub. L. 109-221, set out as a note under section 1629b of this title.

§ 1629f. Claims arising from contamination of transferred lands

(a) As used in this section the term “contaminant” means¹ hazardous substance harmful to public health or the environment, including friable asbestos.

(b) Within 18 months of November 2, 1995, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this chapter. Such report shall consist of—

(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native Corporations;

(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants;

(3) identification of existing remedies;

(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on the lands; and

(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

(Pub. L. 92-203, § 40, as added Pub. L. 104-42, title I, § 103, Nov. 2, 1995, 109 Stat. 354.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1629g. Open season for certain Alaska Native veterans for allotments

(a) In general

(1) During the eighteen month period following promulgation of implementing rules pursuant to subsection (e), a person described in subsection (b) shall be eligible for an allotment of not more than two parcels of federal¹ land totaling 160 acres or less under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(2) Allotments may be selected only from lands that were vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands.

(3) The Secretary may not convey allotments containing any of the following—

(A) lands upon which a native or non-native campsite is located, except for a campsite used primarily by the person selecting the allotment;

(B) lands selected by, but not conveyed to, the State of Alaska pursuant to the Alaska Statehood Act or any other provision of law;

(C) lands selected by, but not conveyed to, a Village or Regional Corporation;

(D) lands designated as wilderness by statute;

(E) acquired lands;

(F) lands containing a building, permanent structure, or other development owned or controlled by the United States, another unit of government, or a person other than the person selecting the allotment;

(G) lands withdrawn or reserved for national defense purposes other than National Petroleum Reserve-Alaska;

(H) National Forest Lands; and

(I) lands selected or claimed, but not conveyed, under a public land law, including but not limited to the following:

(1) Lands within a recorded mining claim.

(2) Home sites.

¹ So in original. Probably should be “means a”.

¹ So in original. Probably should be capitalized.