

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 challenges 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 restric-

tions, 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. 5101 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 Metlakatla¹ 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

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

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;

(l) "Planning Commission" means the Joint Federal-State Land Use Planning Commission established by section 1616 of this title;

(m) "Native Corporation" means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Group Corporation;

(n) "Group Corporation" means an Alaska Native Group 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 members of a Native group in accordance with the terms of this chapter;

(o) "Urban Corporation" means an Alaska Native Urban 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 members of an urban community of Natives in accordance with the terms of this chapter;

(p) "Settlement Common Stock" means stock of a Native Corporation issued pursuant to section 1606(g)(1) of this title that carries with it the rights and restrictions listed in section 1606(h)(1) of this title;

(q) "Replacement Common Stock" means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 1606(h)(3) of this title;

(r) "Descendant of a Native" means—

(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

(A) occurred prior to his or her majority, and

(B) is recognized at law or in equity;

(s) "Alienability restrictions" means the restrictions imposed on Settlement Common Stock by section 1606(h)(1)(B) of this title;

(t) "Settlement Trust" means a trust—

(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

(2) operated for the benefit of shareholders, Natives, and descendants of Natives, in accordance with section 1629e of this title and the laws of the State of Alaska.

(Pub. L. 92-203, § 3, Dec. 18, 1971, 85 Stat. 689; Pub. L. 96-487, title XIV, §1401(d), Dec. 2, 1980, 94 Stat. 2492; Pub. L. 100-241, § 3, Feb. 3, 1988, 101 Stat. 1789; Pub. L. 106-194, § 3, May 2, 2000, 114 Stat. 243.)

Editorial Notes

REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, as amended, referred to in subsec. (e), is section 6(g) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2000—Subsec. (t)(2). Pub. L. 106-194 substituted "benefit of shareholders, Natives, and descendants of Natives," for "sole benefit of the holders of the corporation's Settlement Common Stock".

1988—Subsec. (h). Pub. L. 100-241, §3(1), inserted "group," after "individual."

Subsec. (k). Pub. L. 100-241, §3(2), struck out "and" at end.

Subsec. (l). Pub. L. 100-241, §3(3), substituted semicolon for period.

Subsec. (m). Pub. L. 100-241, §3(4), substituted "Group Corporation;" for "Native Group."

Subsecs. (n) to (t). Pub. L. 100-241, §3(5), added subsecs. (n) to (t).

1980—Subsec. (m). Pub. L. 96-487 added subsec. (m).

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

Statutory Notes and Related Subsidiaries

DEFINITIONS

Pub. L. 108-452, § 2, Dec. 10, 2004, 118 Stat. 3576, provided that: "In this Act [see Short Title of 2004 Amendment note set out under section 1601 of this title]:

"(1) NATIVE ALLOTMENT.—The term 'Native allotment' means an allotment claimed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) [former 43 U.S.C. 270-1 to 270-3].

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(3) STATE.—The term 'State' means the State of Alaska."

§ 1603. Declaration of settlement

(a) Aboriginal title extinguishment through prior land and water area conveyances

All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6(g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) Aboriginal title and claim extinguishment where based on use and occupancy; submerged lands underneath inland and offshore water areas and hunting or fishing rights included

All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

(c) Aboriginal claim extinguishment where based on right, title, use, or occupancy of land or water areas; domestic statute or treaty relating to use and occupancy; or foreign laws; pending claims

All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Native use and occupancy, or that are based on the laws of any other nation, including any such claims that are pending before any Federal or state court or the Indian Claims Commission, are hereby extinguished.

(Pub. L. 92-203, § 4, Dec. 18, 1971, 85 Stat. 689.)

Editorial Notes

REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, referred to in subsec. (a), is section 6(g) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

§ 1604. Enrollment

(a) Eligible Natives; finality of decision

The Secretary shall prepare within two years from December 18, 1971, a roll of all Natives who were born on or before, and who are living on, December 18, 1971. Any decision of the Secretary regarding eligibility for enrollment shall be final.

(b) Residence; order of priority in enrollment of Natives not permanent residents; regional family or hardship enrollment

The roll prepared by the Secretary shall show for each Native, among other things, the region and the village or other place in which he resided on the date of the 1970 census enumeration, and he shall be enrolled according to such residence. Except as provided in subsection (c), a Native eligible for enrollment who is not, when the roll is prepared, a permanent resident of one of the twelve regions established pursuant to section 1606(a) of this title shall be enrolled by the Secretary in one of the twelve regions, giving priority in the following order to—

(1) the region where the Native resided on the 1970 census date if he had resided there without substantial interruption for two or more years;

(2) the region where the Native previously resided for an aggregate of ten years or more;

(3) the region where the Native was born; and

(4) the region from which an ancestor of the Native came.¹

The Secretary may enroll a Native in a different region when necessary to avoid enrolling members of the same family in different regions or otherwise avoid hardship.

(c) Election of enrollment in thirteenth region, if established, of Native nonresidents; dependent household members as bound

A Native eligible for enrollment who is eighteen years of age or older and is not a permanent resident of one of the twelve regions may, on the date he files an application for enrollment, elect to be enrolled in a thirteenth region for Natives who are non-residents of Alaska, if such region is established pursuant to section 1606(c) of this title. If such region is not established, he shall be enrolled as provided in subsection (b). His election shall apply to all dependent members of his household who are less than eighteen years of age, but shall not affect the enrollment of anyone else.

(Pub. L. 92-203, § 5, Dec. 18, 1971, 85 Stat. 690.)

Statutory Notes and Related Subsidiaries

LATE ENROLLMENT OF OTHERWISE QUALIFIED NATIVES

Pub. L. 94-204, § 1, Jan. 2, 1976, 89 Stat. 1145, provided: "That (a) the Secretary of the Interior (hereinafter in this Act [enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title] referred to as the 'Secretary') is directed to review those applications submitted within one year from the date of enactment of this Act [Jan. 2, 1976] by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the 'Settlement Act') [this chapter], and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided*, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which

¹ So in original. The colon probably should be a period.