ANCSA Basics

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The Alaska Native Claims Settlement Act (ANCSA)

- Became law December 18, 1971
- Provided title to 44 million acres of land to Alaska Natives
- Provided $962 million as a cash settlement for the lands.
- Created corporations to distribute money and manage the land for roughly 80,000 Alaska Natives
  - State laws generally govern how corporations are run
- Alaska Natives alive on December 18, 1971 were eligible to become shareholders in the corporations created by ANCSA
  - "Alaska Native" defined as a person with ¼ or more Alaska Native blood

ANCSA

- Created 13 regional corporations
  - Some hold sub-surface rights to village corporation lands
  - Each regional corporation shares 70 % of its profits from natural resource development (oil, mining, timber) with all other regional corporations
- Created more than 200 village corporations
  - hold surface rights to lands
- Special rules for ANCSA Corporations
  - Stock could not be sold or traded until December, 1991
  - Lands could not be taxed or sold until December, 1991

ANCSA – early issues

- Stock could be sold or transferred after December 1991.
  - Created risk that shareholders would sell stock to pay for basic needs
  - Corporations could be taken over by non-Native or out of State people or businesses.
- ANCSA corporate lands could be taxed or transferred after 1991
  - This exposed lands to risk they would be have to be sold to pay taxes
  - Lands could be sold if corporations failed.
- Natives born after December 18, 1971 could not receive ANCSA stock unless they inherited shares from someone who had died.
- Tribal Status remained unclear

“1991 Amendments” - Shareholders

- Congress changed ANCSA to eliminate dangers caused by the 1991 deadline.
- Restrictions on sale or transfer of stock will remain unless a majority of shareholders vote to lift the stock restrictions.
- Shareholders can now give shares to relatives while the shareholders are alive.
- Shareholders can vote to let Corporations issue new classes of stock for:
    - Natives born after Dec. 18, 1971
    - Natives who missed their chance to enroll
    - Native elders age 65 and older.
  - Each new shareholder can receive up to 100 shares total (can’t receive 200 shares as both an elder or missed enrollee)
  - Can offer shares to Natives born after Dec. 18, if they are children or grandchildren of the corporation’s original shareholders, even if less than one-quarter Native blood.
- Shareholders can vote to let Corporations buy back shares issued to non-Natives.
- Shareholders can vote to let Corporation establish a settlement trust.

Land Protections

- 1991 Amendments
  - Undeveloped lands protected from taxes, bad debts and adverse possession
  - Protections removed if lands are leased, pledged as security for loans or mortgages, or developed
- Developed land can be taxed
  - "Developed" means the land has been changed in some way by Natives or a Native Corporation to produce something that can make money.
  - Examples: logging, building a hotel, mining, subdividing the land so it can be sold.
  - Tax only applies to the amount of land actually developed
- Alaska National Interest Lands Conservation Act (ANILCA)

Adding classes of shareholders

- From 1988 to 2006, a Native Corporation could add a new class of shareholders if more than 2/3 of all shareholders voted yes to add that class.
- In 2006 Congress changed the law: A Native Corporation can add new classes of stock when a majority of the shareholders who vote in a corporate election vote yes to adding a new class.
  - Excludes corporations who have set a higher standard in their articles of incorporation.

Who has added shareholder classes?

Corporation	Type of Enrollment	No. of Shares	Age to receive shares	Limitations
Ahtna	Perpetual	100	30 at birth 70 at 18 w/high school diploma/GED 70 at 21 if no degree	Life Estate
ASRC	Perpetual	100	At birth	Life Estate
Doyon	Perpetual	100	30 at birth 70 at 18	Life Estate
Sealaska	Perpetual	100	At 18	Life Estate
NANA	Perpetual	100	At birth	Life Estate
Napakiak	Limited	25	At 15	Life Estate. No voting or dividends All new shares canceled if shareholder inherits or is gifted original stock
Olgoonik Corporation	Conveyed all stock in class	100	At birth	Life Estate
Quinhagak (Qanirtuuq)	Descendants born 12/19/71 – 12/31/93	100	At birth	Life Estate. New shares reduced by number of original shares received if shareholder inherits or is gifted original stock.
The Kuskokwim Corp.	2,000 shareholders	100	At birth	Life Estate
Tyonek Native Corp.	Limited	100	10 at birth 90 at 18	Life Estate

Adding classes of shareholders: Procedure

- Corporation must amend its articles of incorporation to add a new class
  - Board of Directors must vote yes on amendment adding a new class of shareholders; or
  - Process can be started by shareholder petition
- 50-60 days written notice to shareholders
- Corporation sends out a proxy statement describing the proposal and consequences of the proposal
  - Must describe dilution of distributions, effect on voting power, stock value and shareholder benefits
  - Demographic study recommended to show effects of adding class of shareholders, potential size of class
  - Must describe costs of holding vote. For example: educational newsletters, shareholder surveys, expert fees for demographic study, administrative costs, legal fees, costs for meeting with shareholders and mailing and reviewing applications
- A majority of shareholders present at the meeting and/or sending in their proxy statements must vote yes on the resolution to add classes of shareholders

Adding classes of shareholders: Options

- Shares can be life estate/non-transferable
- Can issue less than 100 shares
- Can provide for cancelling shares if original stock is inherited
- Can set a different age for enrollment
- Can set different voting or dividend rights
- Can limit number of shareholders enrolled in the new class

Works Cited

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