

TITLE 43 - PUBLIC LANDS**CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT****§ 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).
- (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 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); 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) of this section 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) of this section, 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.