

**NOTICE TO
ANCSA SHAREHOLDERS
COMPLIANCE WITH
PROXY REGULATIONS**

- 1 -

If you are planning on conducting a campaign to run for a seat on the board of directors for your corporation, you must prepare a proxy statement for submission to shareholders along with your proxy.

- 2 -

This proxy statement must contain certain disclosure information as outlined in 3 AAC 08.355 (nonboard solicitation) a copy of which can be found below, following the Alaska Statutes relevant to proxy contests.

- 3 -

Concurrent with its distribution to shareholders, a copy of the proxy and proxy statement must be filed with:

Department of Commerce and Economic Development
Division of Banking, Securities and Corporations
P.O. Box 110807
Juneau, Alaska 99811-0807
907-465-2521 (phone)
907-465-2549 (fax)

Alaska Statutes Relevant to Native Corporation Proxy Contests

Sec. 45.55.138. Application to Alaska Native Claims Settlement Act corporations.

The initial issue of stock of a corporation organized under Alaska law pursuant to the Alaska Native Claims Settlement Act (P. L. 92-203; 85 Stat. 688; 43 U. S. C. 1601 et seq.) is not a sale of a security under AS 45.55.070 and AS 45.55.130(10).

[Sec. 45.55.138 added by Laws 1972, Ch. 70.]

Sec. 45.55.139. Reports of corporations.

A copy of all annual reports, proxies, consents or authorizations, proxy statements and other materials relating to proxy solicitations distributed, published or made available by any person to at least 30 Alaska resident shareholders of a corporation which has total assets exceeding \$1,000,000 and a class of equity security held of record by 500 or more persons and which is exempted from the registration requirements of AS 45.55.070 by AS 45.55.138, shall be filed with the administrator concurrently with its distribution to shareholders.

[Sec. 45.55.139 added by Laws 1977, Ch. 58.]

Sec. 45.55.160. Misleading filings.

It is unlawful for a person, in a document filed with the administrator or in a proceeding under this chapter, to make or cause to be made an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

[Sec. 45.55.160 amended by Laws 1972, Ch. 86.]

ALASKA ADMINISTRATIVE CODE

TITLE 3

COMMERCE AND ECONOMIC DEVELOPMENT

**Article 3. Alaska Native Claims Act Corporations:
Solicitation of Proxies**

Sec. 3 AAC 08.305. Application of 3 AAC 08.305--3 AAC 08.365.

3 AAC 08.305--3 AAC 08.365 apply only to corporations organized under AS 10.05 pursuant to the Alaska Native Claims Settlement Act (PL 92-203; 85 Stat. 688; 43 USC §1601 et seq.) and subject to the requirements of AS 45.55.139.

[Eff. 1-4-81, Reg. 77]

Authority: AS 45.55.138, AS 45.55.139, AS 45.55.240

Sec. 3 AAC 08.315. False or misleading statements.

(a) A solicitation may not be made by means of a proxy statement, proxy, notice of meeting, or other communication that contains a material misrepresentation. A misrepresentation is a statement that, at the time and under the circumstances in which it is made (1) is false or misleading with respect to a material fact; (2) omits a material fact necessary in order to make a statement made in the solicitation not false or misleading; or (3) omits a material fact necessary to correct a statement, in an earlier communication regarding the solicitation of a proxy for the same meeting or subject matter, which has become false or misleading. A misrepresentation is material if there is substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. A series of statements or omissions that are objectively false or misleading, but which might not be material misrepresentations if considered separately, might be material misrepresentations if there is a substantial likelihood that a reasonable shareholder would consider the series important in deciding how to vote. Subjective proof that one or more shareholders actually granted a proxy because of a misrepresentation is not required. The following are some examples of what, depending upon particular facts and circumstances, might be misleading within the meaning of 3 AAC 08.305--3 AAC 08.365:

(1) predictions as to specific future market values;

(2) material that directly or indirectly impugns character, integrity, or personal reputation, or directly or indirectly makes charges concerning improper, illegal, or immoral conduct or associations, without factual foundation;

(3) failure to identify a proxy statement, proxy, or other soliciting material so as to distinguish it clearly from the soliciting material of any other person soliciting for the same meeting or subject matter;

(4) claims made before a meeting regarding the results of a solicitation; and

(5) regarding the election of directors, failure to disclose the existence of an agreement or understanding among two or more nominees, proxyholders, or other participants with respect to voting of proxies, and failure to disclose the material provisions of such an agreement or understanding, in circumstances where such participants appear to solicit proxies independently or where there is no apparent affiliation among such participants.

(b) The fact that a proxy statement, proxy, or other soliciting material has been filed with or examined by the administrator under AS 45.55.139 is not a finding by the administrator that the material is accurate or complete or not false or misleading, or that the administrator has passed upon the merits of or approved any statement contained in the solicitation or any matter to be acted upon by shareholders. No representation to the contrary may be made.

(c) The administrator may require a person who has brought to his attention a solicitation which the person believes contains materially false or misleading statements to explain the reasons for his view in writing.

[Eff. 1-4-81, Reg. 77; 11-27-88, Reg. 108]

Authority: AS 45.55.138, AS 45.55.139, AS 45.55.160, AS 45.55.170, AS 45.55.240

Sec. 3 AAC 08.325. Prohibition of certain solicitations.

A person may not solicit

(1) an undated or postdated proxy;

(2) a proxy which provides that it is dated after the date on which it is signed by the shareholder;

(3) a proxy which fails to disclose the shareholders' meeting, or any adjournment of that shareholders' meeting, for which it is solicited;

(4) a proxy which confers authority to vote at more than one shareholders' meeting or any adjournment of that shareholders' meeting; or

(5) a proxy which authorizes a vote at any shareholders' meeting other than the one disclosed.

[Eff. 1-4-81, Reg. 77]

Authority: AS 45.55.138, AS 45.55.139, AS 45.55.160, AS 45.55.240

Sec. 3 AAC 08.335. Requirements as to proxy.

(a) A proxyholder shall either attend the shareholders' meeting in person or execute a power of substitution so that the shares for which he has proxies are represented at the meeting.

(b) A proxyholder shall vote in accordance with any choices made by the shareholder or in the manner provided by the proxy when the shareholder has not specified a choice.

(c) The proxy must

(1) indicate that the proxy is solicited on behalf of the board or, if solicited other than by the board, indicate the identity of the persons on whose behalf the solicitation is made;

(2) provide a specifically designated blank space for dating the proxy; and

(3) provide a means for the shareholder to specify by boxes a choice between approval or disapproval of each matter or group of related matters identified in the proxy as intended to be acted upon, other than the election of directors.

(d) A proxy may confer authority for matters on which a choice is not made by the shareholder if the proxy discloses how the shares represented by the proxy will be voted in each case.

(e) A proxy that provides for the election of directors must

(1) set out the names of the nominees for whom the proxy is solicited; and

(2) clearly provide one of the following:

(A) a box opposite the name of each nominee which may be marked to indicate that authority to vote for that nominee is withheld;

(B) an instruction that the shareholder may withhold authority to vote for a nominee by lining through or otherwise striking out the name of that nominee;

(C) a "ballot" type of selection in which the shareholder is permitted to award votes to selected nominees of the shareholder's choosing.

(f) A proxy may confer discretionary authority to vote only with respect to the following:

(1) matters which the persons making the solicitation do not know, a reasonable time before the solicitation, are to be presented at the meeting;

(2) approval of the minutes of the prior meeting if the approval does not amount to ratification of the action taken at that meeting;

(3) the election of a person to an office for which a bona fide nominee is named in the proxy statement and the nominee is unable to serve or for good cause will not serve;

(4) a proposal omitted from the proxy statement and proxy, if solicited for an annual meeting by participants other than the board; or

(5) matters incident to the conduct of the meeting.

(g) If action is to be taken on the election of directors and if the shareholders have cumulative voting rights, a proxy may confer discretionary authority to cumulate votes.

[Eff. 1-4-81, Reg. 77; 11-27-88, Reg. 108]

Authority: AS 45.55.138, AS 45.55.139, AS 45.55.160, AS 45.55.240

Sec. 3 AAC 08.345. Board solicitations.

(a) The solicitation of proxies on behalf of the board for an annual meeting must be preceded or accompanied by the annual report for the corporation's last fiscal year, unless

(1) the solicitation is made on behalf of the board before the annual report is available;

(2) solicitation is being made at the time in opposition to the board; and

(3) the board's proxy statement includes an undertaking to furnish the annual report to all shareholders being solicited at least 50 days before the date of the annual meeting.

(b) The solicitation of proxies on behalf of the board must be preceded or accompanied by a dated, written proxy statement including, but not limited to, the following:

(1) if action is to be taken on the election of directors, a description of each nominee of the board who has consented to act if elected and of each director whose term of office will continue after the shareholders' meeting; each description must include

(A) name, age and address;

(B) all positions and offices presently held with the corporation;

(C) remaining term in office as director and all other periods of service as a director;

(D) percentage attendance during the last fiscal year at meetings of the board, including regularly scheduled and special meetings, and meetings of committees on which he served, if he attended fewer than 75 percent of the aggregate of these meetings;

(E) the nature of any family relationship with any director, nominee or executive officer of the corporation and its subsidiaries;

(F) business experience during the past five years, including principal employment or occupation and employer;

(G) any of the following events which occurred during the past five years which are material to an evaluation of ability or integrity: voluntary or involuntary petition under any bankruptcy or insolvency laws, appointment of a receiver, conviction or plea of nolo contendere in a criminal proceeding, except traffic violations or other minor offenses, and the entry of any final judgment, order or decree, not subsequently reversed or vacated, that he engaged in unethical or illegal business practices or violated securities laws; and

(H) financial transactions by the corporation with any entity since the beginning of the corporation's last fiscal year and presently proposed financial transactions by the corporation with any entity if

(i) the transactions in the aggregate exceed \$20,000; and

(ii) the nominee, director, or a member of his family is employed by, is an officer or director of or owns, directly or indirectly, an interest in the entity;

(2) a statement of all current remuneration distributed or accrued and of all future remuneration contributed during the corporation's last fiscal year on behalf of

(A) each of the five most highly compensated directors or officers for his services in all capacities to the corporation and its subsidiaries, naming each such person; and

(B) all officers and directors as a group, stating the number of persons in the group without naming them; future remuneration contributed includes amounts which were reported in the corporation's annual report for the last fiscal year for annuity, pension or retirement plans and for deferred compensation or profit sharing plans; information need not be furnished regarding costs for ordinary and necessary business expenses or for personal benefits, group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors of the corporation and which are available generally to all salaried employees;

(3) a brief description of financial transactions by the corporation with any entity since the beginning of the corporation's last fiscal year and any presently proposed financial transactions by the corporation with any entity if

(A) the transactions in the aggregate exceed \$20,000; and

(B) the executive officer or a member of his family is employed by, is an officer or director of, or owns, directly or indirectly, an interest in the entity;

(4) a brief description of all legal proceedings to which any director or executive officer is a party with interests adverse to the corporation or its subsidiaries;

(5) if action is to be taken on the election of directors or other matters for which the financial statements are material to the exercise of prudent judgment, a description of the corporation's relationship with its independent public accountants; this description must include

(A) the name of the principal accountant for the last fiscal year;

(B) a statement indicating whether representatives of the principal accountant are expected to be present at the meeting with the opportunity of making a statement, if they so desire, and with the responsibility of responding to appropriate questions;

(C) each professional service provided by the principal accountant and paid for by the corporation during the last fiscal year, such as preparation of corporate tax returns, preparation of personal tax returns, review of proposed corporate acquisitions, review of personal investments, or development of corporate data processing systems;

(D) the percentage relationship which the aggregate of the fees for all nonaudit services bears to the aggregate of fees for both audit and nonaudit services performed by the principal accountant and paid for by the corporation;

(E) each disagreement with the principal accountant in connection with audits of the last two fiscal years and any subsequent interim period if (i) the principal accountant has been changed since the date of publication or distribution of the proxy statement for the last annual meeting; and (ii) there have been disagreements on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former principal accountant, would have caused him to make references to the disagreements in his audit report; the corporation must, at least 20 days before the date of publication or distribution of the proxy statement, furnish by certified mail its description of any disagreements to the former principal accountant; if the former principal accountant believes the description to be incorrect or incomplete, and if he forwards to the corporation, within 10 days of the date of his receipt of the corporation's description, a brief written statement of his view, the statement must be included in the corporation's proxy statement;

(6) a brief description of any arrangement, stating amounts, by which a director is compensated for all services as a director of the corporation and its subsidiaries, including any additional amounts payable for committee participation or special assignments; information need not be furnished regarding costs for ordinary and necessary business expenses or for personal benefits, group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors of the corporation and which are available generally to all salaried employees;

(7) a list of the board's committees, if any, performing audit, nominating and compensation functions, the membership of each committee, the number of meetings held by each committee during the last fiscal year, and a brief description of the functions actually performed by each committee;

(8) a brief description of the methods to be employed to solicit proxies, if other than by use of the mail, and a statement that solicitation is made on behalf of the board;

(9) a statement of the total amount estimated to be spent and the total already expended on the solicitation of proxies; expenditures include fees for attorneys, accountants, solicitors, and public relations or financial advisers and expenses for advertising, printing, transportation, litigation, or other expenses incidental to the solicitation; however, the following expenses may be excluded:

(A) the amounts which the corporation would normally spend on a solicitation for an election of directors in the absence of a contest; and

(B) the salaries and wages of regular employees and officers, if a statement to the effect is included in the proxy statement;

(10) a statement indicating who will bear the cost of solicitation and the total amount any participant, other than the board and the corporation, has contributed or has agreed to contribute, unless the participant is a contributor of less than \$500 in the aggregate;

(11) a statement describing any formal procedure or deadline limiting the shareholder's rights to revoke a proxy before its exercise;

(12) a statement of the number of shares outstanding and entitled to be voted at the meeting;

(13) a statement of the date on which the record of shareholders entitled to vote at the meeting will be determined; if the right to vote is not limited to shareholders of record on that date, the solicitation must indicate the conditions under which other shareholders may be entitled to vote;

(14) if action is to be taken on the election of directors and if the shareholders have cumulative voting rights

(A) a statement that they have the rights; and

(B) a brief description of those rights;

(15) for each matter which is to be submitted to a vote of the shareholders, other than the election of directors, a description of the proposal and a statement of the vote required for its approval; for example, if action is to be taken on

(A) a proposed amendment to the articles of incorporation or bylaws, the description must include the reasons for and general effect of the amendment; or

(B) a proposed property transaction, the description must

(i) outline the material features of the proposed transaction;

(ii) state the nature and amount of consideration and, to the extent practicable, outline the facts which bear on the question of the fairness of consideration; and

(iii) state the name and address of the other party or parties to the proposed transaction and the nature of any material relationship of the party or parties to the corporation, its subsidiaries, officers, or directors; and

(16) a brief description of any substantial interest, direct or indirect, by shareholdings or otherwise, of each participant or executive officer in any matter to be acted upon at the meeting, unless the participant or executive officer owns shares in the corporation and would receive no extra or special benefit not shared on a pro rata basis by all other shareholders of the same class.

[Eff. 1-4-81, Reg. 77; 3-27-88, Reg. 108]

Authority: AS 45.55.138, AS 45.55.139, AS 45.55.160, AS 45.55.240

Sec. 3 AAC 08.355. Non-board solicitations.

The solicitation of proxies on behalf of a participant, other than solicitations under 3 AAC 08.345, must be preceded or accompanied by a dated, written proxy statement including, but not limited to, the following:

- (1) the name of the corporation in respect to which proxies are being solicited;
- (2) the name and address of each participant, including each proxyholder, who has joined or proposes to join in the solicitation;
- (3) a statement indicating whether any of the participants in the solicitation has an arrangement or understanding with an entity for future employment by the corporation or future financial transactions to which the corporation will or may become a party, and a description listing the terms of and the parties to each arrangement or understanding;
- (4) if action is to be taken on the election of directors, a description of each nominee of the participant who has consented to act if elected; each description must include, if applicable
 - (A) name, age and address;
 - (B) all positions and offices presently held with the corporation;
 - (C) remaining term in office as director and all other periods of service as a director;
 - (D) percentage attendance during the last fiscal year at meetings of the board, including regularly scheduled and special meetings, and meetings of committees on which he served, if he attended fewer than 75 percent of the aggregate of these meetings;
 - (E) the nature of any family relationship with any director, nominee or executive officer of the corporation and its subsidiaries;
 - (F) business experience during the past five years, including principal employment or occupation and employer; and
 - (G) any of the following events which occurred during the past five years which are material to an evaluation of ability or integrity: voluntary or involuntary petition under any bankruptcy or insolvency laws, appointment of a receiver, conviction or plea of nolo contendere in a criminal proceeding, except traffic violations or other minor offenses, and the entry of any final judgment, order or decree, not subsequently reversed or vacated, that he engaged in unethical or illegal business practices or violated securities laws;
- (5) a brief description of financial transactions by the corporation with any entity since the beginning of the corporation's last fiscal year and presently proposed financial transactions by the corporation with any entity if
 - (A) the transactions in the aggregate exceed \$20,000; and
 - (B) the participant in the solicitation or a member of his family is employed by, is an officer or director of, or owns, directly or indirectly, an interest in the entity;
- (6) a brief description of all legal proceedings to which each participant in the solicitation is a party with interests adverse to the corporation or its subsidiaries;

- (7) a brief description of the methods to be employed to solicit proxies, if other than by the use of the mail;
- (8) a statement of the total amount estimated to be spent and the total already expended on the solicitation of proxies;
- (9) a statement indicating who will bear the expense of solicitation, and the amount each participant in the solicitation has contributed or has agreed to contribute, unless the participant is a contributor of less than \$500 in the aggregate;
- (10) a statement indicating whether reimbursement for solicitation expenses will be sought from the corporation; and
- (11) if the proxy statement relates to any matter requiring notice to shareholders by law or to a special shareholders' meeting for which any participant in the solicitation sought shareholder signatures on a document calling for the special meeting
 - (A) a description of each matter which is to be submitted to a vote of the shareholders and a statement of the vote required for its approval; and
 - (B) a description of any substantial interest, direct or indirect, by shareholdings or otherwise, of each participant in the solicitation in any matter to be acted upon at the meeting, unless the participant owns shares in the corporation and would receive no extra or special benefit not shared on a pro rata basis by all other shareholders of the same class.

[Eff. 1-4-81, Reg. 77]

Authority: AS 45.55.138, AS 45.55.139, AS 45.55.160, AS 45.55.240

Sec. 3 AAC 08.365. Definitions relating to solicitation of proxies.

For purposes of 3 AAC 08.305--3 AAC 08.365, the following definitions apply:

- (1) "annual report" means a summary by the corporation of its business activities, results of operations, and financial condition for the last fiscal year, including consolidated financial statements, which meet the requirements of 43 USC §1606(o), effective December 18, 1971, and 43 USC §1625, effective January 2, 1976;
- (2) "board" means the board of directors of the issuer of shares for which a proxy is solicited;
- (3) "contest" means an issue in which the board expects one or more solicitations to be made which will be subject to 3 AAC 08.355;
- (4) "corporation" means the issuer of shares with respect to which a proxy is solicited;
- (5) "entity" means an individual, sole proprietorship, partnership, joint venture, trust, association, firm, corporation, or other organization, whether or not operated for profit, which is not a wholly owned subsidiary of the corporation;
- (6) "executive officer" means the president, secretary, treasurer, a vice president in charge of a principal business function, such as sales, administration, or finance, or any other person who performs similar policy-making functions for the corporation;
- (7) "family" means an individual's spouse, parents, children, or siblings by blood or adoption;
- (8) "financial transaction" means
 - (A) the buying, selling, or leasing of real or personal property or of an interest in real or personal property, including, but not limited to, an option, right of first refusal, or joint venture interest;
 - (B) the buying or selling of services;
 - (C) the loaning or borrowing of money or a preliminary commitment to that transaction; or

(D) any other transaction which is substantially similar in nature to those listed in this paragraph, excluding distributions mandated by 43 USC §1606(j), effective December 18, 1971;

(9) “last fiscal year” means the fiscal year of the corporation most recently completed before the date of the meeting for which proxies are to be solicited;

(10) “nominee” means a person who has consented to being named in a proxy statement and who has agreed to serve if elected;

(11) “participant”

(A) means the board and the corporation;

(B) means a nominee for whose election as director proxies are solicited;

(C) means a committee or group which solicits proxies or a member of the committee or group;

(D) means a person who finances, directly or indirectly, the solicitation of proxies, except a person who contributes not more than \$500 and who is not otherwise a participant;

(E) means a person who solicits proxies;

(F) does not include

(i) a person or organization retained or employed by a participant to solicit shareholders whose activities are limited to the performance of his duties in the course of his employment;

(ii) a person who merely transmits proxy soliciting material or performs other ministerial or clerical duties;

(iii) a person employed by a participant in the capacity of attorney, accountant, or as an advertising, public relations, or financial adviser, whose activities are limited to the performance of his duties in course of his employment; or

(iv) a person regularly employed as an officer or employee of a participant who is not otherwise a participant;

(12) “proxy” means a written authorization which may take the form of a consent, revocation of authority, or failure to act or dissent, signed by a shareholder or his attorney-in-fact and giving another person power to vote with respect to the shares of the shareholder;

(13) “proxyholder” means a person to whom a proxy or power of substitution is given;

(14) “proxy statement” means a letter, publication, press release, advertisement, radio/television script or tape, or other communication of any type which is made available to shareholders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy;

(15) “shareholder” means one who is the holder of record of a share in the corporation;

(16) “solicitation” means

(A) a request to execute or not to execute, or to revoke a proxy; or

(B) the distributing of a proxy or other communication to shareholders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy.

[Eff. 1-4-81, Reg. 77; 11-27-88, Reg. 108]

Authority; AS 45.55.138, AS 45.55.139, AS 45.55.160, AS 45.55.240