

SB 166 - Repealed Statutes

Sec. 27.10.130. Value of labor or improvements required on placer claims.

Upon each placer mining claim located after March 14, 1935, until patent is issued, not less than \$100 worth of labor shall be performed or improvements made during each year for each 20 acres or excess fraction contained in the claim.

Sec. 27.10.150. Annual labor or improvements required.

(a) During each year beginning at noon on September 1, and until patent is issued, annual labor shall be performed or improvements made on, or for the benefit of or development of, each mining claim in the state to the extent required by the laws of the United States applicable to Alaska.

(b) If the owner of a mining claim fails to perform the annual labor or make the improvements required by the laws of the United States, the claim is forfeited and open to location by others as if no location of it had ever been made.

(c) If the general laws of the United States requiring annual labor upon mining claims in Alaska are suspended or waived, administratively or by statute, the laws of the state requiring annual labor under this section upon mining claims are likewise suspended or waived upon the same terms and conditions.

Sec. 27.10.160. Affidavit of labor or improvements.

Within 90 days after September 1 of each year the owner of a mining claim, or some other person having knowledge of the facts, shall make and record with the recorder for the district in which the claim is located an affidavit showing the performance of labor or the making of improvements. The affidavit must contain

- (1) the name or number of the mining claim and where situated;
- (2) the number of days' work done and the character and value of the improvements made;
- (3) the date of the performance of the labor and of the making of improvements;
- (4) at whose instance the work was done or the improvements made;
- (5) the actual amount paid for the work and improvements, and by whom paid, when the work was not done by the owner or the lessee of the owner.

Sec. 27.10.170. Effect of recording affidavit of labor or improvements.

An affidavit recorded under AS 27.10.160 is *prima facie* evidence of the performance of the work or of making the improvements stated in it.

Sec. 27.10.180. Notice to co-owners to contribute to cost of annual labor or improvements and forfeiture for failure to contribute.

If one of several co-owners fails to contribute the proportion of the expenditures required for annual labor from the co-owner, the co-owners who have performed the labor or made the improvements may, at the expiration of the annual labor year, give the delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim for at least once a week for 90 days and, if at the expiration of 90 days after the service of the notice in writing or 90 days after the completion of the publication the delinquent co-owner fails or refuses to contribute the proportion of the required expenditures, that co-

owner's interest in the claim is forfeited to the co-owners who have made the expenditures.

Sec. 27.10.190. Recording the notice to contribute and affidavits.

(a) Within 120 days after personal service or within 120 days after the completion of publication of the notice provided for in AS 27.10.180, the co-owner who claims the forfeiture shall record in the office of the recorder of the recording district in which the claim is located a copy of the notice with the following affidavits attached:

(1) an affidavit of the person serving the notice giving the time, place, and manner of service and by whom and upon whom the service was made or, if service was made by publication in a newspaper, an affidavit of the editor, publisher, printer, or foreman of the newspaper giving the name of the newspaper, the place where, and the time during which the notice was published, and the number of insertions;

(2) an affidavit of the co-owner who claims the forfeiture stating that neither the delinquent co-owner nor any person acting for the delinquent co-owner has paid or tendered to the affiant the delinquent's proportion of the expenditures for annual labor or improvements.

(b) The record of the notice and affidavits or a certified copy of it is *prima facie* evidence of the facts contained in it.

Sec. 27.10.200. Lienholder may perform the annual labor.

A person who holds a claim to or lien upon an unpatented mining claim under a certificate of sale, mortgage, attachment, levy, judgment, or other lien, may, when necessary for the protection of the lien or claim, go upon the mining claim and perform or cause to be performed the annual labor required by law to prevent forfeiture. Before performing the labor the person shall mail a written notice of intention to perform the annual labor on the claim to the owner of the claim at the owner's last known address.

Sec. 27.10.210. Lien for performance of annual labor.

(a) The person performing or causing to be performed annual labor upon an unpatented mining claim as provided in AS 27.10.200 shall have a lien upon the claim for the assessment work, including the reasonable cost of transportation to and from the claim incurred in doing the work. The lien is enforced either as in other suits for the foreclosure of liens upon real property or as supplemental accruing costs in an action, if any, then pending in which the claim has been levied upon by attachment, execution, or other court process.

(b) A person claiming a lien under this section shall within 90 days after the completion of the annual labor for which the lien is claimed record in the office of the recorder of the recording district in which the property on which the lien is claimed is situated a notice of claim of lien, verified by the oath of the claimant or another person having knowledge of the facts, and stating the name of the owner or reputed owner of the property, the amount of the claim, the time of the performance of the annual labor for which the lien is claimed, the nature of the labor done or improvements made, and the amount of the claim, including costs of transportation, after deducting all just credits and offsets.

(c) An independent suit or action brought to enforce a lien under this section shall be commenced within six months after the recording of the notice of claim of lien.

Sec. 27.10.220. Lien for annual labor is independent of other liens. The lien given for the performance of annual labor by AS 27.10.210, if the work is done in good faith and necessarily for the protection either of possession under a certificate of sale or of an attachment, levy, mortgage, judgment, or other lien, remains in effect notwithstanding the contemporaneous or subsequent vacation, dissolution, or setting aside of, or redemption from, the certificate of sale, attachment, levy, mortgage, judgment, or other lien.

Sec. 27.10.230. Surveys may qualify as annual labor.

The term "labor" where used in AS 27.10.130 and 27.10.150 includes, without being limited to, geological, geochemical, and geophysical surveys conducted by qualified experts and verified by a detailed report recorded in the recording district office in which the claim is located that sets forth fully (1) the location of the work performed in relation to the point of discovery and boundaries of the claim, (2) the nature, extent, and cost thereof, (3) the basic findings therefrom, and (4) the name, address, and professional background of the person or persons conducting the work. Surveys of this kind, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each of these surveys shall be nonrepetitive of any previous survey on the same claim.

Sec. 27.10.240. Definitions for AS 27.10.230.

In AS 27.10.230,

(1) "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(2) "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(3) "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(4) "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys.

Sec. 38.05.210. Annual labor.

(a) Labor shall be performed or improvements made annually on or for the benefit or development of each mining claim, leasehold location, and mining lease on state land except that, where adjacent claims, leasehold locations, or mining leases are held in common, the expenditure may be made on any one claim, leasehold location, or mining lease. The commissioner shall establish the date of the

commencement of the year during which the labor or improvements are to be performed. Labor shall be performed at the following annual rates: (1) \$100 per claim, leasehold location, or lease if the claim, leasehold location, or lease is a quarter-quarter section MTRSC claim, leasehold location, or lease; (2) \$400 for each quarter section MTRSC claim, leasehold location, or lease; and (3) \$100 for each partial or whole 40 acres of each mining claim, leasehold location, or lease not established using the MTRSC system. If more work is performed than is required by this section to be performed in any one year, the excess value may be applied against labor required to be done during the subsequent year or years, for as many as four years. Instead of performing annual labor, the holder of a claim, leasehold location, or mining lease may make a cash payment to the state equal to the value of the labor required by this subsection.

(b) During the year in which annual labor is required or within 90 days after the close of that year, the owner of the mining claim, leasehold location, or mining lease, or some other person having knowledge of the facts shall record with the recorder of the district in which the claim, leasehold location, or mining lease is located a signed statement setting out the information, as may be required by the commissioner, concerning the annual labor of the preceding year, any labor in excess of that required for the preceding year, and any payment of cash instead of annual labor. The statement, properly recorded, is *prima facie* evidence of the performance of the labor. The failure of one of several co-owners to contribute the proportion of the expenditures required for annual labor from the co-owner shall be treated in accordance with AS 38.05.215 - 38.05.235.

(c) The statement of annual labor required in (b) of this section may be amended within two years of the date by which the annual labor statement was required to be recorded. An amended statement shall be recorded for record in the same manner as the original statement. Additional labor claimed in an amended statement may not be applied against labor required to be done during a subsequent year.

(d) [Repealed, Sec. 10 ch 101 SLA 1989].

Sec. 38.05.215. Notice to co-owners to contribute to cost of annual labor or improvements and forfeiture for failure to contribute.

If one of several co-owners fails to contribute the proportion of the expenditures required for annual labor from the co-owner, the co-owners who have performed the labor or made the improvements may, at the expiration of the annual labor year, give the delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim for at least once a week for 90 days. If at the expiration of 90 days after the service of the notice in writing, or 90 days after the completion of the publication the delinquent fails or refuses to contribute the required proportion of the expenditures, the interest of the delinquent co-owner in the claim is forfeited to the co-owners who have made the expenditures.

Sec. 38.05.220. Recording the notice to contribute and affidavits.

(a) Within 120 days after personal service, or within 120 days after the completion of publication of the notice provided for in AS 38.05.215, the co-owner who claims the forfeiture shall record in the office of the recorder of the recording district in which the claim is located a copy of the notice with the following affidavits attached:

(1) an affidavit of the person serving the notice giving the time, place, and manner of service and by whom and upon whom the service was made or, if service was made by publication in a newspaper, an affidavit of the editor, publisher, printer, or foreman of the newspaper giving the name of the newspaper, the place where, and the time during which the notice was published and the number of insertions;

(2) an affidavit of the co-owner who claims the forfeiture stating that neither the delinquent co-owner nor any person acting for the delinquent co-owner has paid or tendered to the affiant the delinquent's proportion of the expenditures for annual labor or improvements.

(b) The record of the notice and affidavits or a certified copy of it is *prima facie* evidence of the facts contained in it.

Sec. 38.05.225. Lienholder may perform the annual labor.

A person who holds a claim to or lien upon an unpatented mining claim under a certificate of sale, mortgage, attachment, levy, judgment, or other lien may, when necessary for the protection of the lien or claim, go upon the mining claim and perform or cause to be performed the annual labor required by law to prevent forfeiture. Before performing the labor the claimant or lien holder shall mail a written notice of intent to perform the annual labor on the claim to the owner of the claim at the last known address of the owner of the claim.

Sec. 38.05.230. Lien for performance of annual labor.

(a) The person performing or causing to be performed annual labor upon an unpatented mining claim as provided in AS 38.05.225 shall have a lien upon the claim for the assessment work, including the reasonable cost of transportation to and from the claim incurred in doing the work. The lien is enforced either as in other suits for the foreclosure of liens upon real property or as supplemental accruing costs in an action, if any, then pending in which the claim has been levied upon by attachment, execution, or other court process.

(b) A person claiming a lien under this section shall, within 90 days after the completion of the annual labor for which the lien is claimed, record in the office of the recorder of the recording district in which the property on which the lien is claimed is situated a notice of claim of lien, verified by the oath of the person claiming the lien or that of some other person having knowledge of the facts, and stating the name of the owner or reputed owner of the property, the amount of the claim, the time of the performance of the annual labor for which the lien is claimed, the nature of the labor done or improvements made, and the amount of the claim, including costs of transportation, after deducting all just credits and offsets.

(c) An independent suit or action brought to enforce a lien under this section shall be commenced within six months after the recording of the notice of claim of lien.

Sec. 38.05.235. Lien for annual labor is independent of other liens.

The lien given for the performance of annual labor by AS 38.05.230, if the work is done in good faith and necessarily for the protection either of possession under a certificate of sale or of an attachment, levy, mortgage, judgment, or other lien, remains in effect notwithstanding the contemporaneous or subsequent vacation, dissolution, or setting aside of, or redemption from, the certificate of sale, attachment, levy, mortgage, judgment, or other lien.

Sec. 38.05.240. Labor defined for AS 38.05.210 - 38.05.235.

In AS 38.05.210 - 38.05.235, "labor" includes geological, geochemical, geophysical, and airborne surveys conducted by qualified experts and verified by a detailed report filed in the recording district office in which the claim, leasehold location, or mining lease is located which sets out fully (1) the location of the work performed in relation to the point of discovery and boundaries of the claim, leasehold location, or mining lease, (2) the nature, extent, and cost of it, and (3) the name, address, and professional background of the person conducting the work. The commissioner, by regulation, shall define the nature of acceptable survey work and the qualifications of a person competent to perform this work. The airborne surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, leasehold location, or mining lease, and each of those surveys shall be nonrepetitive of any previous survey on the same claim, leasehold location, or mining lease.

Sec. 38.05.242. Definitions for AS 38.05.210 - 38.05.240.

In AS 38.05.210 - 38.05.240,

(1) "airborne survey" means a survey from the air for mineral deposits by the proper application of magnetometers, electromagnetic input systems, infrared detectors, side-looking radar, vertical and panoramic cameras, and other devices as they relate to the search for and discovery of mineral deposits;

(2) "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(4) "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuances in geological formations;

(5) "MTRSC system" means the system described in AS 38.05.195(b)(1) based on the ground location of a complete quarter section or quarter-quarter section of a township on a rectangular survey system;

(6) "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys, as the case may be.