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SECTIONAL FOR COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL 155 (RES) (CSSSSB155(RES)) (Version G)

“Committee Substitute for Sponsor Substitute for Senate Bill 155 (RES) (CSSSSB155(RES)) –
“An Act relating to exploration and mining rights; relating to annual labor requirements with respect to mining claims and related leases; relating to statements of annual labor; defining ‘labor’; and providing for an effective date.”

Section 1 – AS 38.05.190(a) is amended - Qualifications

1. In addition to allowances already in statute
 - a. Adds that mining rights can be acquired by:
 - i. Conservators of minors or incapacitated adults;
 - ii. Individuals at least 18 years of age or older who have declared their intentions to become citizens of the United States;
 - iii. Limited liability companies (LLCs);
 - iv. Registered trusts (with a qualified trustee)

Section 2 – AS 38.05.190(b) is repealed and reenacted

1. An unqualified person may become qualified or transfer the interest to a qualified person within 90 days after the department sends written notice. If the defect is not cured, the department may make a “void” declaration.

Section 3 - New subsections are added to AS 38.05.190 (which still focuses on qualifications). These are new subsections (c), (d), (e), (f), and (g).

1. (c) - If the department learns that an unqualified person has acquired an interest, the department shall send written notice by certified mail, return receipt requested, to the most recent address on file. The notice shall state the interest will be void, if the defect is not cured or transferred within 90 days. The Department of Natural Resources (DNR) may send an additional copy of the notice by regular mail.

2. (d) – Failure to comply will result in a “void.” However, there shall be no “void” declaration if the person becomes qualified.
3. (e) – An unqualified person can cure either before or after receiving notice. However, a person may not cure if there has been “void” declaration. If “void” a person cannot re-stake for one year.
4. (f) – If the unqualified person fails to cure the defect within 90 days after the department sent written notice, the department may declare the exploration or mining interest “void” and open to location. There shall be no third party location or judicial action within those 90 days.
5. (g) – “Qualified to do business in this state” means holding a certificate issued by the commissioner of commerce, community, and economic development (necessary to do business in the state).

Section 4 – AS 38.05.195(b) – Establishment of deposit rights when using the Meridian, Township, Range, Section, and Claim system (MTRSC). How does MTRSC work? Location of a claim is based on ground locations of quarter sections, or, quarter by quarter sections of a township on a rectangular survey system. The locator marks the claim, using the MTRSC system in good faith. The corners are marked on the ground of the claim, in the event of a conflict. The system is approved by the commissioner.

1. Adds: a valid MTRSC system location establishes rights to deposits within the section that are open to claim staking at the time of location.

Section 5 – AS 38.05.195(d) – Changes in locations and amended notices.

1. Eliminated unnecessary language and focused on a simple procedure outlined in AS 38.05.200. Notices can be amended at any time to correspond with the amended locations, as long as it does not interfere with the rights of others. If there was an error in the notice or certificate of location, an amended certificate of location shall be recorded in the same manner and with the same effect as the original certificate.

Section 6 – AS 38.05.210(a) - Outlines clear guidelines for performance of annual labor – Performing annual labor means that the miner is working the ground and trying to produce.

1. Added:
 - a. Annual labor performance may include adjacent federal or private mineral interests held in common.
 - i. Expenditures may be made on or for the benefit of any one claim, leasehold location, mining lease, or mineral interest.
 - b. Labor shall be performed at the following rates:
 - i. \$100 for each claim;
 - ii. \$400 for each quarter section MTRSC claim
 - iii. \$100 for each partial or whole 40 acres of each mining claim not established using the MTRSC system.

- c. For not more than five consecutive years, the claim holder may make a cash payment instead of performing annual labor.

Section 7 – AS 38.05.210(b) - Clarifies the information found in a statement of annual labor

- 1. Added:
 - a. Individual signs the statement to certify that it is true and correct to the best of the individual’s knowledge.
 - b. The statement must include:
 - i. The assessment work year
 - ii. The name and land administration number assigned by the department
 - iii. Every meridian, township, range, and section in which the mining claim is located
 - iv. The recording district
 - v. The total amount of work required
 - vi. A description of the labor performed
 - vii. The value of:
 - 1. Labor performed during the assessment year;
 - 2. Any excess labor value from a previous year applied against the labor required; or
 - 3. Any cash payment applied toward the value of the annual labor required;
 - viii. The name and mailing address of the owner designated to receive notices
- 2. Removed:
 - a. Outdated language or language that does not synch with the changes being made in this bill.

Section 8 – AS 38.05.210(c) - Allows for statements of annual labor to be corrected at any time

- 1. Added:
 - a. The statement of annual labor, whether recorded before or after the effective date of this Act, may be corrected or amended before the 90-day cure period.
 - b. The corrected statement of annual labor shall be recorded like the original.
 - c. A corrected statement may not be applied against labor required to be done during a subsequent year.
- 2. Removed:
 - a. 2-year threshold has been removed.

Section 9 – AS 38.05.210 – Added new subsections (e), (f), (g), (h), (i), (j), and (k)

- 1. (e) – A single statement of annual labor may be recorded for the benefit of more than one mining claim.
- 2. (f) - A timely recorded statement of annual labor is prima facia evidence of performance.
- 3. (g) – The department shall not declare a mining claim invalid based on a deficiency in a statement of annual labor until 90 days after written notice. The notice shall be sent by

certified mail (return receipt requested) to the most recent address on file. The department may send an additional copy by regular mail.

4. (h) – If the person fails to correct the statement of annual labor within 90 days, after notice has been sent, the department may declare the mining claim or leasehold location invalid and the affected land becomes open to location. A third party may not locate or file a judicial action within those 90 days.
5. (i) - A decision to declare a location invalid based on a deficiency in a statement of annual labor must be issued no later than five years after the date of the annual labor is recorded.
6. (j) - Failure of a co-owner to contribute shall be treated in accordance with AS 38.05.215-AS 38.05.235.
 - a. What do those statutes say?
 - i. A non-contributing co-owner may be required to forfeit their interest to the other co-owner, after direct written notice or 90 days public notice in a local newspaper of record from the contributing co-owner.
 - ii. If a forfeiture occurs, within 120 days, the co-owner that claims forfeiture shall record in the recorder’s office where the claim is located:
 1. Copy of notice
 2. Affidavit of service
 3. Affidavit of co-owner
 - a. Must include that delinquent amount has not be rectified.
 - iii. If a lienholder on an unpatented mining claim, the lienholder may perform annual labor to prevent forfeiture.
 - iv. Notice must be sent to the address of owner.
 - v. Lienholder work shall be reimbursed. Must be properly recorded 90 within completion.
 - vi. A lawsuit may be filed to enforce a lien after notice of the claim of lien.
 - vii. A lien for performance of annual labor must be done in good faith to protect interests.

Section 10 – AS 38.05.240 - Defines “labor”

1. Added:
 - a. Labor includes:
 - i. Work performed in good faith on a mining claim, leasehold location, or mining lease that is directly related to exploring for, developing, or producing minerals, including:
 1. Excavating, tunneling, drilling, or clearing land;
 2. Constructing or maintaining roads, trails, and landing strips;
 3. Extracting and producing ore;
 4. Performing metallurgical analyses, environmental studies, economic feasibility studies, engineering, and permitting;
 5. Constructing settling ponds, water supplies, and other utilities;
 6. Providing worker housing;
 7. Performing reclamation activities under a reclamation plan;

8. Transporting workers and equipment in the state to or from a mining site (not to exceed 50% of the total value of labor in the statement of annual labor for the assessment year);
 9. Conducting a geological or airborne survey by a qualified expert and verified by a detailed report that sets out:
 - a. The location of the survey;
 - b. The nature, extent, and cost of the survey;
 - c. The name, address, and professional background of the person conducting the work.
2. Removed:
- a. Older terms that didn't fit.
 - b. Language clarifying how many years the airborne surveys can be applied as labor.

Section 11 – AS 38.05.265(a) and (b) - Clarifies “abandonment” –

1. (a) - Failure to perform labor or make improvements or make a payment in lieu of labor, timely record a certificate of location or statement of annual labor, timely pay annual rental, or timely pay any required production royalties constitutes abandonment.
 - a. A locator may not relocate the claim until one year after abandonment.
 - b. Removed:
 - i. A statement of annual labor that does not accurately set out essential facts is void and has no effect.
 - c. If an annual rental or a royalty payment is deficient but is otherwise timely paid, abandonment does not result if full payment is made within the period described in the deficiency notice from the department or 30 days after a final judgment establishing the amount due (if the deficiency amount due was contested).
2. (b) – Added “rents and royalties.” The language now states that unless another person has located on the abandoned claim or leasehold location (or the area is closed to mineral location), a person may cure the failure to record or pay rents or royalties (that led to abandonment) by:
 - a. Properly recording the certificate of location or statement of annual labor;
 - b. Paying any required rental or royalties; and
 - c. Paying the penalty equal to the annual rent from the mining claim or leasehold location.

Section 12 – AS 38.05.270 – Transfers

1. Clarified that evidence of the sale, lease, or other transfer of mining property or interest in mining property be recorded, but eliminated existing language which stated “OR SHALL BE APPROVED BY THE DIRECTOR IN COMPLIANCE WITH SUCH REGULATIONS AS THE COMMISSIONER MAY ADOPT.”
 - a. Why? The removed language was too vague. What “regulations?” Clarity and a “streamlined process” was sought for the miners.

Section 13 – AS 38.05.275(a) - Ensures that mining on state selected land located on or after an active unpatented federal mining claim may be located only with recorded permission of the unpatented federal mining claim holder.

Section 14 – AS 38.05.283 – Departmental Review – DNR is not required to unilaterally go back and look through their files for “compliance issues” without good cause.

Section 15 - Clarifies applicability.

Section 16 - Ensures a smooth transition process (for regulations).

Section 17 – Immediate effective date.