



LAWS OF ALASKA

1989

Source

CSSB 129(Fin)

Chapter No.

101

AN ACT

Relating to mining; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 12, 1989
Actual Effective Date: Section 11(d) takes effect June 13, 1989; sections 8 and 12 take effect June 1, 1990; remainder of Act takes effect August 31, 1989

AN ACT

Relating to mining; and providing for an effective date.

* Section 1. AS 38.05.205(c) is amended to read:

(c) A mining lease shall be for any period up to 55 years, and is renewable if requirements for the lease remain satisfied. Annual rental and production royalties shall be paid as required under AS 38.05.211 and 38.05.212 [THE LESSEE HAS A RIGHT TO A NEW LEASE AT THE END OF EACH LEASE PERIOD. THE COMMISSIONER MAY MAKE REASONABLE ADJUSTMENTS OF THE RENTAL RATE AT THE END OF EACH 20 YEAR PERIOD, BASED UPON CHANGED CONDITIONS IN PRODUCTION COSTS AND MARKETS]. A valid mining claim located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the commissioner. Rights [NO RIGHTS] granted by a mining lease may not be exercised until the lease has been filed for record in the recording district where the land is located.

* Sec. 2. AS 38.05.210(a) is amended to read:

(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

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1 performed. Labor shall be performed at the annual rate of \$100 [\$200]
2 per claim or leasehold location, and \$100 for each partial or whole 40
3 acres of each mining lease. If more work is performed than is re-
4 quired by this section to be performed in any one year, the excess
5 [WORK UP TO A] value [OF \$800] may be applied against labor required
6 to be done during the subsequent year or years, for as many as four
7 years. Instead of performing annual labor, the holder of a claim,
8 leasehold location, or mining lease may make a cash payment to the
9 state equal to the value of the labor required by this subsection.

10 * Sec. 3. AS 38.05.210(b) is amended to read:

11 (b) During the year in which [THE PERFORMANCE OF] annual labor
12 is required or within 90 days after the close of that year, the owner
13 of the mining claim, leasehold location, or mining lease, or some
14 other person having knowledge of the facts shall record with the
15 recorder of the district in which the claim, leasehold location, or
16 mining lease is located a signed statement setting out the informa-
17 tion, as may be required by the commissioner, concerning the annual
18 labor of the preceding year, [AND] any labor in excess of that re-
19 quired for the preceding year, and any payment of cash instead of
20 annual labor. The statement, properly recorded, is prima facie evi-
21 dence of the performance of the labor. The failure of one of several
22 co-owners to contribute the proportion of the expenditures required
23 for annual labor from the co-owner shall be treated in accordance with
24 AS 38.05.215 - 38.05.235.

25 * Sec. 4. AS 38.05 is amended by adding new sections to read:

26 Sec. 38.05.211. ANNUAL RENTAL. (a) The holder of each mining
27 claim, leasehold location, and mining lease, including a mining lease
28 under AS 38.05.250, shall pay, in advance, annual rental for the right
29 to continue to hold the mining claim, leasehold location, and mining

1 lease, including a mining lease under AS 38.05.250. The annual rental
 2 amount shall be based on the number of the years since a mining claim,
 3 a leasehold location, or a mining lease's predecessor claim or lease-
 4 hold location was first located, as follows:

5 Number of Years Since 6 First Located	Rental Amount Per 7 Acre for Mining 8 Leases	Rental Amount 9 for Each Mining 10 Claim or Leasehold 11 Location
12 0 - 5	\$.50	\$ 20
13 6 - 10	\$1.00	40
14 11 - or more	\$2.50	100

15 (b) A claim, leasehold location, or mining lease located on or
 16 before August 31, 1989 is considered to have been first located on
 17 August 31, 1989 for purposes of determining the amount of rental under
 18 this section.

19 (c) The rental for each year shall be credited against the
 20 production royalty under AS 38.05.212 as it accrues for that year.

21 (d) The rental established under this section shall be revised
 22 each 10 years by the commissioner based on the consumer price index
 23 for Anchorage and published in regulations by the commissioner.

24 Sec. 38.05.212. PRODUCTION ROYALTY. (a) In exchange for and to
 25 preserve the right to extract and possess the minerals produced, the
 26 holder of a mining claim, leasehold location, or mining lease, includ-
 27 ing a mining lease under AS 38.05.250, shall pay a royalty on all
 28 minerals produced from land subject to the claim, leasehold location,
 29 or mining lease during each calendar year.

(b) The production royalty is three percent of net income as
 determined under AS 43.65.

(c) The commissioner shall adopt regulations to implement this

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1 section and to provide for combined reporting and paying of production
2 royalties for mining operations that include more than one mining
3 claim, leasehold location, or mining lease.

4 * Sec. 5. AS 38.05.240 is amended to read:

5 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 - 38.05.235. In
6 AS 38.05.210 - 38.05.235, "labor" includes geological, geochemical,
7 geophysical, and airborne surveys conducted by qualified experts and
8 verified by a detailed report filed in the recording district office
9 in which the claim, leasehold location, or mining lease is located
10 which sets out fully (1) the location of the work performed in re-
11 lation to the point of discovery and boundaries of the claim, lease-
12 hold location, or mining lease, (2) the nature, extent, and cost of
13 it, and (3) the name, address, and professional background of the
14 person conducting the work. The commissioner, by regulation, shall
15 define the nature of acceptable survey work and the qualifications of
16 a person competent to perform this work. The airborne surveys, how-
17 ever, may not be applied as labor for more than two consecutive years
18 or for more than a total of five years on any one mining claim, lease-
19 hold location, or mining lease, and each of those surveys shall be
20 nonrepetitive of any previous survey on the same claim, leasehold
21 location, or mining lease.

22 * Sec. 6. AS 38.05.250(c) is amended to read:

23 (c) Each [LEASES FOR SUBMERGED LAND SHALL BE CONDITIONED UPON
24 PAYMENT OF AN ANNUAL RENTAL OF \$3 AN ACRE. EXPENDITURES ON OR FOR THE
25 BENEFIT OF THE LEASEHOLD MAY BE CREDITED AGAINST THE RENTAL. RENT
26 SHALL BE PAID OR A STATEMENT OF ANNUAL LABOR SHALL BE RECORDED WITHIN
27 90 DAYS AFTER EACH ANNIVERSARY DATE OF THE LEASE. ALL] submerged land
28 mining lease [LEASES] shall be for a period of up to 20 years [,] and
29 for so long as there is production in paying quantities from the

1 leased area. [THE COMMISSIONER MAY MAKE REASONABLE ADJUSTMENTS OF THE
2 RENTAL RATE AT THE END OF EACH 10-YEAR PERIOD, BASED UPON CHANGED
3 CONDITIONS IN PRODUCTION COSTS AND MARKET.]

4 * Sec. 7. AS 38.05.265 is amended to read:

5 Sec. 38.05.265. ABANDONMENT. Failure to [(1)] properly record a
6 certificate of location or a statement of annual labor, [OR (2)] file
7 with the director within the time prescribed a lease application, [OR
8 (3)] pay any required annual rental, pay any required production
9 royalty [OR RECEIVE CREDIT FOR RENTAL], or [(4)] keep location bound-
10 aries clearly marked [, ALL] as required by AS 38.05.185 - 38.05.275
11 and by regulations adopted under these sections [,] constitutes aban-
12 donment of all rights acquired under the mining claim [LEASE], lease-
13 hold location, lease, or site involved, and the claim, location,
14 lease, or site [IT] is subject to relocation by others. A [IF A
15 LOCATION IS NOT RELOCATED BY ANOTHER PERSON WITHIN ONE YEAR AFTER THE
16 FAILURE, THE] locator or claimant of an [THE] abandoned location [,]
17 or a successor in interest [,] may not [RETURN TO] relocate the lo-
18 cation until one year after abandonment [IT AS THOUGH IT HAD NEVER
19 BEEN LOCATED]. A statement of annual labor that [WHICH] does not
20 accurately set out the essential facts is void and of no effect. If
21 an annual rental or a royalty payment is deficient but is otherwise
22 timely paid, abandonment does not result if full payment is made
23 within

24 (1) the period prescribed by a deficiency notice from the
25 commissioner; or

26 (2) 30 days after a final judgment establishing the amount
27 due if the deficiency amount due was contested.

28 * Sec. 8. AS 27.05 is amended by adding a new section to read:

29 ARTICLE 4. RECLAMATION.

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1 Sec. 27.05.250. RECLAMATION. (a) The commissioner shall re-
2 quire reclamation of state land from the effects of mining.

3 (b) The commissioner shall adopt regulations under this section
4 and under AS 38 to implement (a) of this section. The regulations
5 must require a miner to submit to the commissioner and receive ap-
6 proval on a reclamation plan before undertaking any mining activity;
7 the regulations must also establish penalties for noncompliance with
8 the regulations. On a determination by the commissioner that a miner
9 has failed to follow the reclamation plan, the commissioner shall
10 require proof of financial responsibility before the miner undertakes
11 any further mining activity.

12 (c) In order to provide for an effective reclamation program,
13 when adopting regulations under this section and AS 38, the commis-
14 sioner shall consult with the commissioners of environmental conserva-
15 tion and fish and game.

16 (d) This section does not apply to reclamation carried out under
17 AS 27.21.

18 * Sec. 9. AS 43.05.230 is amended by adding a new subsection to read:

19 (h) The commissioner shall, upon request, furnish to the Depart-
20 ment of Natural Resources copies of tax returns, reports, documents
21 filed under AS 43.65.010 - 43.65.060, and the department's deter-
22 minations and workpapers. The Department of Natural Resources shall
23 maintain the confidentiality that the department is required to extend
24 to the returns, reports, documents, determinations, and workpapers
25 furnished to the Department of Natural Resources under this subsec-
26 tion.

27 * Sec. 10. AS 38.05.205(b) and 38.05.210(d) are repealed.

28 * Sec. 11. TRANSITION. (a) Sections 1 - 7, 9, and 10 of this Act and
29 this section apply to mining claims, leasehold locations, and mining leases
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1 located before, on, or after August 31, 1989.

2 (b) The first annual rental payment due under AS 38.05.211 as enacted
3 in sec. 4 of this Act is for the annual labor year beginning September 1,
4 1989.

5 (c) The first production royalty payment due under AS 38.05.212 as
6 enacted by sec. 4 of this Act is for production after December 31, 1989.

7 (d) The commissioner of natural resources shall adopt regulations to
8 implement the changes made by secs. 1 - 7, 9, and 10 of this Act and this
9 section. The regulations take effect under the Administrative Procedure
10 Act (AS 44.62) but not before August 31, 1989. The regulations may defer
11 the date for the first annual rental payment due under AS 38.05.211 as
12 enacted in sec. 4 of this Act.

13 * Sec. 12. The commissioner of natural resources shall adopt the regu-
14 lations required by AS 27.05.250, added by sec. 8 of this Act, by July 1,
15 1991.

16 * Sec. 13. Section 11(d) of this Act takes effect immediately under
17 AS 01.10.070(c).

18 * Sec. 14. Except for secs. 8, 11(d), and 12, this Act takes effect
19 August 31, 1989.

20 * Sec. 15. Sections 8 and 12 of this Act take effect June 1, 1990.