

**HOUSE BILL NO. 46**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KELLY AND THERRIAULT

Introduced: 1/13/97

Referred: Resources

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to mining; and providing for an effective date."

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

3 \* **Section 1.** AS 38.05.185(a) is amended to read:

4 (a) The acquisition and continuance of rights in and to deposits on state land  
 5 of minerals, which on January 3, 1959, were subject to location under the mining laws  
 6 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in  
 7 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to  
 8 mineral deposits owned by any other person or government. The director, with the  
 9 approval of the commissioner, shall determine that land from which mineral deposits  
 10 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that  
 11 land that shall be closed to **location under AS 38.05.185 - 38.05.275** [MINING].  
 12 State land may not be closed to [MINING OR MINERAL] location **under**  
 13 **AS 38.05.185 - 38.05.275** except as provided in AS 38.05.300 and unless the  
 14 commissioner makes a finding that mining would be incompatible with significant  
 15 surface uses on the state land. State land may not be restricted to mining under lease

1 unless the commissioner determines that potential use conflicts on the state land  
 2 require that mining be allowed only under written leases issued under AS 38.05.205  
 3 or the commissioner has determined that the land was mineral in character at the time  
 4 of state selection. The determinations required under this subsection shall be made in  
 5 compliance with land classification orders and land use plans developed under  
 6 AS 38.05.300.

7 \* **Sec. 2.** AS 38.05.190(a) is amended to read:

8 (a) The right to acquire exploration and mining rights under AS 38.05.185 -  
 9 38.05.275 may be acquired or held only by

10 (1) citizens of the United States at least 18 years of age;

11 (2) legal guardians or trustees of citizens of the United States under 18  
 12 years of age on behalf of the citizens;

13 (3) persons at least 18 years of age who have declared their intention  
 14 to become citizens of the United States;

15 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF  
 16 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED  
 17 STATES];

18 (5) corporations organized under the laws of the United States or of  
 19 any state or territory of the United States and qualified to do business in this state [,  
 20 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A  
 21 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT  
 22 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD  
 23 THE RIGHTS];

24 (5) [(6)] associations of persons described in (1) - (4) [(1) - (5)] of this  
 25 subsection.

26 \* **Sec. 3.** AS 38.05.211(d) is repealed and reenacted to read:

27 (d) The rental amount established under this section shall be revised by the  
 28 commissioner as provided in this section based on changes in the Consumer Price  
 29 Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average)  
 30 compiled by the Bureau of Labor Statistics, United States Department of Labor, as  
 31 revised, rebased, or replaced by that bureau. The reference base index is the index for

1 January - June 1989, as revised or rebased by that bureau. The rental amount shall be  
2 revised by the commissioner if the change between the index for the first six months  
3 of the current year and the most recent index used to revise the rental, or the reference  
4 base index if the rental amount has never been revised, equals or exceeds \$5. The  
5 rental amount shall be increased or decreased, as appropriate, by an amount equal to  
6 the change in the index described in this subsection rounded to the nearest whole \$5  
7 unit. The commissioner shall calculate the change in the index annually and, if the  
8 rental amount must be revised, shall adopt a regulation establishing the revised rental  
9 amount. A revised rental amount applies to a rental payment if the regulation  
10 establishing the revised rental amount took effect at least 90 days before the date the  
11 rental payment is due.

12 \* **Sec. 4.** AS 38.05.255 is amended to read:

13 **Sec. 38.05.255. Surface use of land or water.** Surface uses of land or water  
14 included within mining properties by owners of those properties shall be limited to  
15 those necessary for the prospecting for, extraction of, or basic processing of mineral  
16 deposits and shall be subject to reasonable concurrent uses. Leases [PERMITS] for  
17 millsites and tailings disposal may be issued [GRANTED] by the director. The leases  
18 [PERMITS] shall be conditioned upon payment of a reasonable annual rent  
19 [CHARGE] for the lease [USE] and restriction to [CONTINUANCE OF] the limited  
20 use. Timber from land open to mining without lease, except timberland, may be used  
21 by a mining claimant or prospecting site locator for the mining or development of the  
22 location or adjacent claims under common ownership. On other land, timber may be  
23 acquired as provided in this chapter. Use of water shall be made in accordance with  
24 AS 46.15.

25 \* **Sec. 5.** AS 38.05.255 is amended by adding a new subsection to read:

26 (b) A lease issued under this section is exempt from the provisions of  
27 AS 38.05.075 - 38.05.080. The commissioner, by regulation, shall establish  
28 appropriate leasing procedures and annual rent amounts for leases under this section.

29 \* **Sec. 6.** AS 38.05.265 is amended to read:

30 **Sec. 38.05.265. Abandonment.** Failure to properly record a certificate of  
31 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE

1 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay  
 2 any required production royalty, or keep location boundaries clearly marked as  
 3 required by AS 38.05.185 - 38.05.200, 38.05.207 - 38.05.245, 38.05.252 - 38.05.275,  
 4 [AS 38.05.185 - 38.05.275] and by regulations adopted under these sections constitutes  
 5 abandonment of all rights acquired under the mining claim, leasehold location,  
 6 [LEASE,] or site involved, and the claim, location, [LEASE,] or site is subject to  
 7 relocation by others. A locator or claimant of an abandoned location or a successor  
 8 in interest may not relocate the location until one year after abandonment. A statement  
 9 of annual labor that does not accurately set out the essential facts is void and of no  
 10 effect. If an annual rental or a royalty payment is deficient but is otherwise timely  
 11 paid, abandonment does not result if full payment is made within

12 (1) the period prescribed by a deficiency notice from the commissioner;

13 or

14 (2) 30 days after a final judgment establishing the amount due if the  
 15 deficiency amount due was contested.

16 \* **Sec. 7.** AS 38.05.035(e)(6)(F), 38.05.207, and 38.05.945(g) are repealed.

17 \* **Sec. 8.** TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 9 of  
 18 this Act, the Department of Natural Resources may proceed to adopt regulations necessary to  
 19 implement the changes made by this Act. The regulations take effect under AS 44.62  
 20 (Administrative Procedure Act), but not before July 1, 1997.

21 \* **Sec. 9.** Except for sec. 8 of this Act, this Act takes effect July 1, 1997.

22 \* **Sec. 10.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).