

CS FOR HOUSE BILL NO. 253(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/1/16

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an exemption from the mining license tax; relating to the mining
2 license tax rate; relating to mining license application, renewal, and fees; relating to the
3 exploration incentive credit; establishing a legislative working group to study the tax
4 structure for mining; and providing for an effective date."

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

6 * **Section 1.** AS 27.30.030(a) is amended to read:

7 (a) In a tax year [OR ROYALTY PAYMENT PERIOD], subject to (c) of this
8 section and the respective limitations of this subsection, the person may apply the
9 credit, the taking of which was approved under AS 27.30.020(2), against [(1)] taxes
10 payable by the person

11 (1) [(A)] under AS 43.65; application of the credit under this
12 **paragraph** [SUBPARAGRAPH] may not exceed the lesser of

13 (A) [(i)] 50 percent of the person's tax liability under AS 43.65
14 for the tax year that is related to production from the mining operation at which

1 the exploration activities occurred, as shown under (b) of this section; or

2 (B) [(ii)] 50 percent of the person's total tax liability under
3 AS 43.65 for the tax year;

4 (2) [(B)] under AS 43.20; application of the credit under this
5 paragraph [SUBPARAGRAPH] may not exceed the lesser of

6 (A) [(i)] an amount equal to the amount determined under
7 (1)(A) [(A)(i)] of this subsection [PARAGRAPH]; or

8 (B) [(ii)] 50 percent of the person's total tax liability under
9 AS 43.20 for the tax year [; AND

10 (2) MINERAL PRODUCTION ROYALTY PAYMENTS PAYABLE
11 BY THE PERSON UNDER AS 38.05.135 - 38.05.160 AND 38.05.212 FOR
12 PRODUCTION FROM THE MINING OPERATION AT WHICH THE
13 EXPLORATION ACTIVITIES OCCURRED; APPLICATION OF THE CREDIT
14 UNDER THIS PARAGRAPH MAY NOT EXCEED 50 PERCENT OF THE
15 PERSON'S MINERAL PRODUCTION ROYALTY PAYMENT LIABILITY FROM
16 THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES
17 OCCURRED].

18 * **Sec. 2.** AS 27.30.030(b) is amended to read:

19 (b) If the person applies the credit against the person's tax liability under
20 (a)(1)(A) or (a)(2)(A) [(a)(1)(A)(i) OR (a)(1)(B)(i)] of this section, the commissioner
21 of revenue shall disallow application of the credit under that provision unless the
22 person files with the person's tax return an accounting of the person's mining operation
23 activities for each mining operation that is included in the tax return and as to which
24 the credit is being applied. The accounting of mining operation activities required by
25 this subsection shall be made

26 (1) on a form prescribed by the Department of Revenue; on the form,
27 the person shall

28 (A) identify the mining operations for which the credit is
29 claimed; and

30 (B) set out the gross income attributable to the mining
31 operations and other information about the mining operations that the

1 Department of Revenue may require;

2 (2) without regard to an exemption to which the person may be entitled
3 under AS 43.65.010(a).

4 * **Sec. 3.** AS 27.30.040 is amended to read:

5 **Sec. 27.30.040. Credit may be carried forward.** Except as its application is
6 limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not applied under
7 AS 27.30.030 during a tax year [OR ROYALTY PAYMENT PERIOD] may be
8 carried forward to and applied during a subsequent tax year [OR ROYALTY
9 PAYMENT PERIOD].

10 * **Sec. 4.** AS 27.30.050 is amended to read:

11 **Sec. 27.30.050. Limit on application of credit.** An exploration incentive
12 credit for a mining operation may not exceed \$20,000,000 and must be applied within
13 15 tax years [OR ROYALTY PAYMENT PERIODS] after the taking of the credit is
14 approved under AS 27.30.020(2), but the tax years [OR ROYALTY PAYMENT
15 PERIODS] in which the credit is applied need not be

16 (1) the tax year [OR ROYALTY PAYMENT PERIOD] in which the
17 person first incurs liability for payment of tax [OR ROYALTY] based on the person's
18 activity that is the basis of the claim of the exploration incentive credit; or

19 (2) consecutive periods.

20 * **Sec. 5.** AS 43.65.010(a) is amended to read:

21 (a) A person prosecuting or attempting to prosecute, or engaging in the
22 business of mining in the state shall obtain a license from the department. All new
23 mining operations are exempt from the tax levied by this chapter for three [AND
24 ONE-HALF] years after production begins.

25 * **Sec. 6.** AS 43.65.010(c) is amended to read:

26 (c) The license tax on mining is as follows: on [UPON] the net income of the
27 taxpayer from the property in the state, computed with allowable depletion, plus
28 royalty received in connection with mining property in the state

29 over \$40,000 and not over \$50,000 3 percent

30 over \$50,000 and not over \$100,000 \$1,500 plus

31 5 percent of the excess over \$50,000

1 over \$100,000 \$4,000 plus
 2 8 [7] percent of the excess over \$100,000.

3 * **Sec. 7.** AS 43.65.020(d) is amended to read:

4 (d) [A TAXPAYER'S RETURN SHALL BE MADE TO THE
 5 DEPARTMENT AT JUNEAU.] A taxpayer shall make a return either on a calendar
 6 year or fiscal year basis, in conformance with the basis used in making the taxpayer's
 7 return for federal income tax purposes.

8 * **Sec. 8.** AS 43.65.030 is amended to read:

9 **Sec. 43.65.030. Applications and [APPLICATION FOR] renewals; fees.**
 10 **The fee for a mining license and for each renewal is \$50.** Application for renewal of
 11 a mining license shall be made before **January 1** [MAY 1] of **the license** [EACH]
 12 year.

13 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 14 read:

15 LEGISLATIVE WORKING GROUP. (a) A legislative working group is established
 16 to

17 (1) review the state's fiscal regime for mining taxation, including state mining
 18 license taxes, royalties, rents, and corporate income tax with consideration of federal and
 19 municipal taxation;

20 (2) develop terms for a comprehensive reform of the mining tax regime; and

21 (3) recommend changes to the legislature for consideration during the First
 22 Regular Session of the Thirtieth Alaska State Legislature.

23 (b) The working group consists of

24 (1) two co-chairs, one of whom is a member of the house appointed by the
 25 speaker of the house of representatives, and one of whom is a member of the senate appointed
 26 by the president of the senate; and

27 (2) members appointed by the co-chairs; members must be legislators and
 28 must include members of the majority and minority caucuses.

29 (c) The co-chairs of the working group may form an advisory group to the working
 30 group, composed of members who are not legislators and who have expertise and skills to
 31 assist in the review and development of a new plan for the tax structure and rates on mining

1 licenses. The members of an advisory group may include commissioners or employees of
2 state departments, members of the mining industry or trade associations, and economists.

3 (d) The working group is to be supported by legislative consultants under contract
4 through the Legislative Budget and Audit Committee.

5 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **APPLICABILITY.** (a) AS 43.65.010(a), as amended by sec. 5 of this Act, applies to a
8 mining operation that begins production on or after the effective date of sec. 5 of this Act.

9 (b) AS 43.65.010(c), as amended by sec. 6 of this Act, applies to net income of a
10 taxpayer from property in the state during a taxable year that begins on or after the effective
11 date of sec. 6 of this Act.

12 (c) The changes to the applicability of the exploration incentive credit made in
13 AS 27.30.030(a) and (b), as amended by secs. 1 and 2 of this Act, AS 27.30.040, as amended
14 by sec. 3 of this Act, and AS 27.30.050, as amended by sec. 4 of this Act, apply to a royalty
15 payment period beginning on or after the effective date of sec. 1 of this Act.

16 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 **TRANSITION: REGULATIONS.** The Department of Revenue may adopt regulations
19 necessary to implement the changes made by this Act. The regulations take effect under
20 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
21 implemented by the regulation.

22 * **Sec. 12.** Sections 9 and 11 of this Act take effect immediately under AS 01.10.070(c).

23 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2016.