

CS FOR HOUSE BILL NO. 4005(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FOURTH SPECIAL SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 6/3/16

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the mining license tax; relating to the exploration incentive credit
2 and royalty payments; relating to mining license application, renewal, and fees; and
3 providing for an effective date."

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

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

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

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

12 (A) [(i)] 50 percent of the person's tax liability under AS 43.65
13 for the tax year that is related to production from the mining operation at which
14 the exploration activities occurred, as shown under (b) of this section; or

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

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

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

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

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

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

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

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

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

29 (B) set out the gross income attributable to the mining
30 operations and other information about the mining operations that the
31 Department of Revenue may require;

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

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

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

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

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

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

18 (2) consecutive periods.

19 * **Sec. 5.** AS 38.05.150(d) is amended to read:

20 (d) For the privilege of mining or extracting the coal in the land covered by
21 the lease, the lessee

22 (1) shall pay to the state the royalties specified in the lease; the
23 royalties shall be fixed before offering the lease, and shall be effective for a period of
24 not more than 20 years; the royalties shall be not less than five cents a ton of 2,000
25 pounds; [THE ROYALTY PAYMENT IS SUBJECT TO THE EXPLORATION
26 INCENTIVE CREDIT AUTHORIZED BY AS 27.30;]

27 (2) shall also pay an annual rental, payable at the date of the lease and
28 annually thereafter, on the land or coal deposits covered by the lease, at a rate fixed by
29 the commissioner before offering the lease; the annual rental shall be effective for a
30 period of not more than 20 years; the annual rental shall be not less than 25 cents an
31 acre for the first year of the lease, not less than 50 cents an acre for the second year,

1 third year, fourth year and fifth year, and not less than \$1 an acre for each year
2 thereafter during the continuance of the lease; the rental for each year shall be credited
3 against the royalties as they accrue for that year; each lease shall provide that the
4 annual rental payment is subject to adjustment at intervals of **not** [NO] more than 20
5 years and adjustments shall be based on the current rates for properties similarly
6 situated.

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

8 (c) The license tax on mining is as follows: **on** [UPON] the net income of the
9 taxpayer from the property in the state, computed with allowable depletion, plus
10 royalty received in connection with mining property in the state
11 over \$40,000 and not over \$50,000 3 percent
12 over \$50,000 and not over \$100,000 \$1,500 plus
13 5 percent of the excess over \$50,000
14 over \$100,000 \$4,000 plus
15 **(9)** [7] percent of the excess over \$100,000.

16 * **Sec. 7.** AS 43.65.030 is amended to read:

17 **Sec. 43.65.030. Applications and [APPLICATION FOR] renewals; fees.**
18 **The fee for a mining license and for each renewal is \$50.** Application for renewal of
19 a mining license shall be made before **January 1** [MAY 1] of each year.

20 * **Sec. 8.** AS 27.30.080 and AS 38.05.212(b)(2) are repealed.

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

23 APPLICABILITY. (a) The changes to the applicability of the exploration incentive
24 credit made in AS 27.30.030(a) and (b), as amended by secs. 1 and 2 of this Act,
25 AS 27.30.040, as amended by sec. 3 of this Act, AS 27.30.050, as amended by sec. 4 of this
26 Act, AS 38.05.150(d), as amended by sec. 5 of this Act, and the repeal of AS 27.30.080 and
27 AS 38.05.212(b)(2) by sec. 8 of this Act, apply to a royalty payment period beginning on or
28 after the effective date of sec. 1 of this Act.

29 (b) AS 43.65.010(c), as amended by sec. 6 of this Act, applies to net income of the
30 taxpayer from property in the state during a taxable year beginning on or after the effective
31 date of sec. 6 of this Act.

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

3 TRANSITION. In administering the application of the exploration incentive credit
4 under AS 27.30, AS 27.30.030(b)(2) applies to an accounting under AS 27.30.030(b) for a
5 person who began mining production before the effective date of this section.

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

8 TRANSITION: REGULATIONS. The Department of Revenue and the Department of
9 Natural Resources may adopt regulations necessary to implement the changes made by this
10 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
11 before the effective date of the law implemented by the regulation.

12 * **Sec. 12.** Section 11 this Act takes effect immediately under AS 01.10.070(c).

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