

SENATE BILL NO. 166

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/29/18

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending requirements for qualifications to acquire or hold mining rights;**
2 **amending rental rates for mining locations and leases; repealing annual labor**
3 **requirements for mining locations; providing for waiver of a cure penalty for**
4 **abandonment because of failure to properly record a statement of labor; and providing**
5 **for an effective date."**

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

7 * **Section 1.** AS 27.10.010 is amended to read:

8 **Sec. 27.10.010. Claims to be located as prescribed by law.** A person who
9 discovers upon the public domain in the state a lode or vein of rock in place, or a
10 placer deposit that is open to location under the mining laws of the United States, may
11 locate a lode mining claim or placer mining claim by posting a notice of location and
12 by marking the boundaries as provided in AS 27.10.030 - 27.10.070. An attempted
13 location of a mining claim that does not comply with AS 27.10.030 - 27.10.070 [AND

AS 27.10.150 - 27.10.190] is void.

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

(a) The right to acquire exploration and mining rights under AS 38.05.185 - 38.05.275 may be acquired or held only by **bona fide miners who are**

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

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

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

(4) aliens at least 18 years of age if the laws of their country grant like privileges to citizens of the United States;

(5) corporations organized under the laws of the United States or of any state or territory of the United States and qualified to do business in this state;

(6) associations of persons described in (1) - (5) of this subsection.

* **Sec. 3.** AS 38.05.190 is amended by adding new subsections to read:

(c) An applicant or bidder for a mining lease must submit a notarized affidavit to the department verifying that the applicant or bidder is a bona fide miner under (a) of this section. The affidavit must be submitted with the application for a mining lease or before a competitive lease disposal of a mining lease as required by the department for an applicant or bidder to be eligible for a mining lease. Upon request by the department, a holder of a mining claim, lease, or leasehold location or an authorized representative for the holder, shall submit a notarized affidavit stating that the holder or lessee is a bona fide miner. The affidavit must be postmarked or received by the commissioner not later than 90 days after receipt of the request for the affidavit. An affidavit timely postmarked or received is prima facie evidence that the holder or lessee is a bona fide miner. If an affidavit stating that the holder or lessee is a bona fide miner is not timely postmarked or received, the department may determine in writing that the holder or lessee is unqualified to acquire or hold exploration and mining rights. Any appeal or request for reconsideration of a determination under this subsection must be made under AS 44.37.011.

(d) In this section, "bona fide miner" means an entity or person who seeks to

acquire, acquires, or holds exploration and mining rights under AS 38.05.185 - 38.05.275 in good faith for purposes of mineral exploration and development and not for the prevention of mineral exploration or development.

* **Sec. 4.** AS 38.05.195(d) is amended to read:

(d) Locations may be amended in the manner and with the effect prescribed in AS 38.05.200. [ANNUAL LABOR SHALL BE PERFORMED AND STATEMENTS OF ANNUAL LABOR RECORDED AS PRESCRIBED IN AS 38.05.210 - 38.05.235.]

* **Sec. 5.** AS 38.05.211(a) is amended to read:

(a) The holder of each mining claim, leasehold location, prospecting site, and mining lease, including a mining lease under AS 38.05.250, shall pay, in advance, rental for the right to continue to hold the mining claim, leasehold location, prospecting site, and mining lease, including a mining lease under AS 38.05.250. Rental is due and payable as follows:

(1) the rental amount for a prospecting site is fixed at **\$300** [\$200] for the two-year term of the site;

(2) annual rental for a mining claim, leasehold location, or mining lease shall be based on the number of years since a mining claim, a leasehold location, or a mining lease's predecessor claim or leasehold location was first located; the annual rental amounts for a mining claim, leasehold location, or mining lease are as follows:

Rental Amount for Each Mining Claim or Leasehold Location, Including		
Number of Years Since First Located	Rental Amount Per Acre for Mining Leases	Each Quarter- Quarter Section MTRSC System
0 - 5	<u>\$1.29</u> [\$.50]	<u>\$50</u> [\$ 20]
6 - 10	<u>2.32</u> [\$1.00]	<u>95</u> [40]
11- or more	<u>5.27</u> [\$2.50]	<u>210</u> [100];

(3) the annual rental in any year for each quarter section claim, leasehold location, or lease based on the MTRSC system is four times the rental amount for a quarter-quarter section mining claim, leasehold location, or lease in that year.

* **Sec. 6.** AS 38.05.211(d) is amended to read:

(d) The rental amount established under this section shall be revised by the commissioner as provided in this section based on changes in the Consumer Price Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average) compiled by the Bureau of Labor Statistics, United States Department of Labor, as revised, rebased, or replaced by that bureau. The reference base index is the index for January - June **2018** [1989], as revised or rebased by that bureau. The rental amount shall be increased or decreased, as appropriate, by an amount equal to the change in the index described in this subsection rounded to the nearest whole \$5 unit. The commissioner shall calculate the change in the rental amount each 10 years and, if the rental amount must be revised, shall adopt a regulation establishing the revised rental amount. A revised rental amount applies to a rental payment if the regulation establishing the revised rental amount took effect at least 90 days before the date the rental payment is due.

* **Sec. 7.** AS 38.05.211 is amended by adding a new subsection to read:

(f) For purposes of this section, "MTRSC system" means the system described in AS 38.05.195(b)(1) based on the ground location of a complete quarter section or quarter-quarter section of a township on a rectangular survey system.

* **Sec. 8.** AS 38.05.265 is amended to read:

Sec. 38.05.265. Abandonment. (a) Failure to properly record a certificate of location [OR A STATEMENT OF ANNUAL LABOR], pay any required annual rental, or pay any required production royalty as required by AS 38.05.185 - 38.05.200, **38.05.211, 38.05.212, 38.05.245** [38.05.210 - 38.05.245], 38.05.252 - 38.05.275, and by regulations adopted under these sections constitutes abandonment of all rights acquired under the mining claim, leasehold location, or prospecting site involved, and the claim, leasehold location, or prospecting site is subject to relocation by others, unless the failure constituting the abandonment is cured under (b) of this

1 section. A locator or claimant of an abandoned location or a successor in interest may
 2 not relocate the claim, leasehold location, or prospecting site until one year after
 3 abandonment. The locator of an abandoned prospecting site may locate a claim or
 4 leasehold location on that site at any time. [A STATEMENT OF ANNUAL LABOR
 5 THAT DOES NOT ACCURATELY SET OUT THE ESSENTIAL FACTS IS VOID
 6 AND OF NO EFFECT.] If an annual rental or a royalty payment is deficient but is
 7 otherwise timely paid, abandonment does not result if full payment is made within

8 (1) the period prescribed by a deficiency notice from the
 9 commissioner; or

10 (2) 30 days after a final judgment establishing the amount due if the
 11 deficiency amount due was contested.

12 (b) Unless another person has located a mining claim or leasehold location
 13 that includes all or part of the mining claim or leasehold location abandoned under (a)
 14 of this section or the area is closed to mineral location under AS 38.05.185 -
 15 38.05.275, a person may cure the failure to record or pay that constituted the
 16 abandonment and cure the abandonment by

17 (1) properly recording a certificate of location [OR A STATEMENT
 18 OF ANNUAL LABOR], paying any required annual rental, and paying any required
 19 production royalty; and

20 (2) paying a penalty equal to the annual rent for the mining claim or
 21 leasehold location that was abandoned under (a) of this section.

22 * **Sec. 9.** AS 38.05.265 is amended by adding a new subsection to read:

23 (c) Unless another person has located a mining claim or leasehold location that
 24 includes all or part of the mining claim or leasehold location abandoned under former
 25 AS 38.05.265(a) or the area is closed to mineral location under AS 38.05.185 -
 26 38.05.275, a person may cure the failure to record a statement of annual labor that
 27 constituted an abandonment under (a) of this section, as that subsection read on the
 28 day before the effective date of sec. 8 of this Act, and cure the abandonment by
 29 properly recording a statement of annual labor and otherwise complying with (b) of
 30 this section, except a penalty under (b)(2) of this section is not required when a failure
 31 to record a statement of labor alone constituted the abandonment.

* **Sec. 10.** AS 27.10.130, 27.10.150, 27.10.160, 27.10.170, 27.10.180, 27.10.190, 27.10.200, 27.10.210, 27.10.220, 27.10.230, 27.10.240; AS 38.05.210, 38.05.215, 38.05.220, 38.05.225, 38.05.230, 38.05.235, 38.05.240, and 38.05.242 are repealed.

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

APPLICABILITY. Notwithstanding the effective date of this Act, the amendments to AS 27.10.010 by sec. 1 of this Act, the amendments to AS 38.05.195 by sec. 4 of this Act, the amendments to AS 38.05.265 by sec. 8 of this Act, and the repeal of AS 27.10.130, 27.10.150, 27.10.160, 27.10.170, 27.10.180, 27.10.190, 27.10.200, 27.10.210, 27.10.220, 27.10.230, 27.10.240, AS 38.05.210, 38.05.215, 38.05.220, 38.05.225, 38.05.230, 38.05.235, 38.05.240, and 38.05.242 by sec 10 of this Act, apply only to labor years beginning on and after September 1, 2018. The provisions in AS 27.10.010, 27.10.130, 27.10.150, 27.10.160, 27.10.170, 27.10.180, 27.10.190, 27.10.200, 27.10.210, 27.10.220, 27.10.230, 27.10.240, AS 38.05.195, 38.05.210, 38.05.215, 38.05.220, 38.05.225, 38.05.230, 38.05.235, 38.05.240, and 38.05.242, as those sections read the day before the effective date of secs. 1, 4, and 10 of this Act, apply to any annual labor requirements, including requirements to record affidavits or statements of labor, for the labor year that began September 1, 2017, and that ends September 1, 2018. The provisions of AS 38.05.265(a) and (b), as those sections read on the day before the effective date of secs. 8 and 9 of this Act, apply to any annual labor requirements for the labor year that began September 1, 2017, and that ends September 1, 2018, except that under AS 38.05.265(c), a penalty is not required to cure where a failure to record a statement of labor alone constituted the abandonment.

* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY OF RENTAL AMOUNTS. AS 38.05.211(a), as amended by sec. 5 of this Act, applies to rental amounts calculated by the commissioner of natural resources under AS 38.05.211(d), as amended by sec. 6 of this Act, on or after the effective date of this Act.

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

TRANSITIONAL PROVISION: REGULATIONS. The Department of Natural

1 Resources may adopt regulations necessary to implement the changes made by this Act. The
2 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
3 effective date of the law implemented by the regulation.

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

6 TRANSITION: MINING LEASES. Upon written request to the department by the
7 holder of a mining lease issued under AS 38.05.205 or 38.05.250, the department shall amend
8 the lease to remove any annual labor requirements included in the lease, if the holder of the
9 mining lease submits the written request not later than two years after the effective date of
10 secs. 1 - 11 of this Act.

11 * **Sec. 15.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).

12 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect September 2, 2018.