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Referred: Resources and Finance

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1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 129

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act providing for rent and royalty payments for a  
7 mining claim, leasehold location, or mining lease;  
8 relating to annual labor requirements for, and abandon-  
9 ment of, a mining claim, leasehold location, or  
10 mining lease; relating to mining license tax informa-  
11 tion; and providing for an effective date."

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

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

14 (c) A mining lease shall be for any period up to 55 years, and  
15 is renewable if requirements for a lease remain satisfied [THE LESSEE  
16 HAS A RIGHT TO A NEW LEASE AT THE END OF EACH LEASE PERIOD]. Annual  
17 rental and production royalties shall be paid as required under  
18 AS 38.05.211 and AS 38.05.212. [THE COMMISSIONER MAY MAKE REASONABLE  
19 ADJUSTMENTS OF THE RENTAL RATE AT THE END OF EACH 20 YEAR PERIOD,  
20 BASED UPON CHANGED CONDITIONS IN PRODUCTION COSTS AND MARKETS.] A  
21 valid mining claim located and held under AS 38.05.195 may be convert-  
22 ed to a lease at any time upon application by the owner, and issuance  
23 by the commissioner. No rights granted by a mining lease may be  
24 exercised until the lease has been filed for record in the recording  
25 district where the land is located.

26 \* Sec. 2. AS 38.05.210 is amended to read:

27 Sec. 38.05.210. ANNUAL LABOR. (a) Labor shall be performed or  
28 improvements made annually on or for the benefit or development of  
29 each mining claim, leasehold location, and mining lease on state land

1       except that where adjacent claims, leasehold locations, or mining  
2       leases are held in common, the expenditure may be made on any one  
3       claim, leasehold location, or mining lease. The commissioner shall  
4       establish the date of the commencement of the year during which the  
5       labor or improvements are to be performed. Labor shall be performed  
6       at the annual rate of \$100 [\$200] per claim or leasehold location, and  
7       \$100 for each partial or whole 40 acres of each mining lease. If more  
8       work is performed than is required by this section to be performed in  
9       any one year, the excess [WORK UP TO A] value [OF \$800] may be applied  
10      against labor required to be done during the subsequent year or years,  
11      for as many as four years.

12           (b) Instead of the performance of annual labor, the holder of a  
13      claim, leasehold location, or mining lease may make a cash payment to  
14      the state equal to the value of the labor required by (a) of this  
15      section.

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

1           (d)[(c)] The statement of annual labor required in (c) [(b)] of  
2 this section may be amended within two years of the date by which the  
3 annual labor statement was required to be recorded. An amended state-  
4 ment shall be recorded for record in the same manner as the original  
5 statement. Additional labor claimed in an amended statement may not  
6 be applied against labor required to be done during a subsequent year.

7           [(d) AS 38.05.240 AND 38.05.242 APPLY TO THIS SECTION.]

8 \* Sec. 3. AS 38.05 is amended by adding new sections to read:

9           Sec. 38.05.211. ANNUAL RENTAL. (a) The holder of each mining  
10 claim, leasehold location, and mining lease shall pay, in advance,  
11 annual rental for the right to continue to hold the mining claim,  
12 leasehold location, or mining lease. The annual rental amount, set by  
13 the commissioner, shall be based on the number of the years since a  
14 mining claim, a leasehold location, or a mining lease's predecessor  
15 claim or leasehold location was first located, as follows:

16	Number of Years Since	Minimum
17	First Recorded	Rental Amount Per Acre
18		
19	0 -- 5	\$ .50
20	6 -- 10	\$1.00
21	11 -- 20	\$2.50
22	21 or more	\$5.00

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

27           Sec. 38.05.212. PRODUCTION ROYALTY. (a) In exchange for, and  
28 to preserve, the right to extract and possess the minerals produced,  
29 the holder of each mining claim, leasehold location, and mining lease

1 shall pay a royalty on all minerals produced from land subject to the  
2 claim, leasehold location, or mining lease during each calendar year.

3 (b) The production royalty is a percentage of net income or a  
4 minimum royalty, whichever is higher, and may not be less than the  
5 amounts and percentages shown in the following table:

6		7	8	9
	Gross Income	Minimum	or	Percentage of
		Royalty		Net Income
				Royalty
9	\$ 0 to \$ 49,999	\$ 200		one percent
10	50,000 to 99,999	750		two percent
11	100,000 to 249,999	2,000		two percent
12	250,000 to 499,999	5,000		two percent
13	500,000 to 2,499,999	22,500		two percent
14	more than 2,499,999	30,000		three percent

15 (c) If the production is not sold, or is not sold at prevailing  
16 market rates, net income and gross income are calculated on the basis  
17 of the market value of the production.

18 (d) The commissioner may adopt regulations to implement this  
19 section and to provide for combined reporting and paying of production  
20 royalties for mining operations that include more than one mining  
21 claim, leasehold location, or mining lease.

22 \* Sec. 4. AS 38.05.240 is amended to read:

23 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 -- 38.05.235. In  
24 AS 38.05.210 -- 38.05.235, "labor" includes geological, geochemical,  
25 geophysical, and airborne surveys conducted by qualified experts and  
26 verified by a detailed report filed in the recording district office  
27 in which the claim, leasehold location, or mining lease is located  
28 which sets out fully (1) the location of the work performed in re-  
29 lation to the point of discovery and boundaries of the claim,

1 leasehold location, or mining lease. (2) the nature, extent, and cost  
2 of it, and (3) the name, address, and professional background of the  
3 person conducting the work. The commissioner, by regulation, shall  
4 define the nature of acceptable survey work and the qualifications of  
5 a person competent to perform this work. The airborne surveys, howev-  
6 er, may not be applied as labor for more than two consecutive years or  
7 for more than a total of five years on any one mining claim, leasehold  
8 location, or mining lease. and each of those surveys shall be nonre-  
9 petitive of any previous survey on the same claim, leasehold location,  
10 or mining lease.

11 \* Sec. 5. AS 38.05.265 is amended to read:

12 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly record a  
13 certificate of location or a statement of annual labor, [OR] (2) file  
14 with the director within the time prescribed a lease application, [OR]  
15 (3) pay annual rental, (4) pay production royalty, [OR RECEIVE CREDIT  
16 FOR RENTAL,] or (5) [(4)] keep location boundaries clearly marked, all  
17 as required by AS 38.05.185 -- 38.05.275 and by regulations adopted  
18 under these sections, constitutes abandonment of all rights acquired  
19 under the mining claim [LEASE], leasehold location, lease, or site  
20 involved, and it is subject to relocation by others. [IF A LOCATION  
21 IS NOT RELOCATED BY ANOTHER PERSON WITHIN ONE YEAR AFTER THE FAILURE,  
22 THE] A locator or claimant of an [THE] abandoned location, or a suc-  
23 cessor in interest, may not [RETURN TO] relocate it until one year  
24 after abandonment [AS THOUGH IT HAD NEVER BEEN LOCATED]. A statement  
25 of annual labor which does not accurately set out the essential facts  
26 is void and of no effect. If an annual rental or a royalty payment is  
27 deficient, but is otherwise timely paid, abandonment does not result  
28 if full payment is made within (1) the period prescribed by a defi-  
29 ciency notice from the commissioner, or (2) 30 days after a final

1       judgment establishing the amount due if the deficiency amount due was  
2       contested.

3       \* Sec. 6. AS 43.05.230 is amended by adding a new subsection to read:

4               (h) The commissioner shall, upon request, furnish to the Depart-  
5       ment of Natural Resources copies of tax returns, reports, and docu-  
6       ments filed under AS 43.65.010 -- 43.65.060, and of the department's  
7       determinations and workpapers. The Department of Natural Resources  
8       shall maintain any confidentiality that the department is required to  
9       extend to the returns, reports, documents, determinations, and  
10       workpapers furnished to the Department of Natural Resources under this  
11       subsection.

12       \* Sec. 7. AS 38.05.205(b) is repealed.

13       \* Sec. 8. TRANSITION. (a) This Act applies to mining claims, lease-  
14       hold locations, and mining leases located before, on, or after the effec-  
15       tive date of this Act.

16               (b) The first annual rental payment due under AS 38.05.211, enacted  
17       by sec. 3 of this Act, is for the annual labor year beginning September 1,  
18       1989.

19               (c) The first production royalty payment due under AS 38.05.212,  
20       enacted by sec. 3 of this Act, is for production after December 31, 1989.

21               (d) The commissioner of natural resources may adopt regulations under  
22       AS 38.05 and other relevant statutes in effect before August 31, 1989, to  
23       implement the changes made by this Act. Those regulations take effect in  
24       accordance with the Administrative Procedure Act (AS 44.62), but not before  
25       August 31, 1989. The regulations may provide for a deferred date for the  
26       first annual rental payment due under AS 38.05.211, enacted by sec. 3 of  
27       this Act.

28       \* Sec. 9. Section 8(d) of this Act takes effect immediately under  
29       AS 01.10.070(c).

1 \* Sec. 10. Sections 1 -- 7 and 8(a) -- (c) of this Act take effect  
2 August 31, 1989.