

1 IN THE SENATE

KERTTULA, COGHILL,
FRANK AND FAIKS

2

SENATE BILL NO. 161

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
7 leasehold locations and mining leases; relating to
8 mineral in character determinations; and providing
9 for an effective date."

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

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

12 (a) The acquisition and continuance of rights in and to deposits
13 on state land of minerals which on January 3, 1959, were subject to
14 location under the mining laws of the United States shall be governed
15 by AS 38.05.185 - 38.05.275. Nothing in AS 38.05.185 - 38.05.275
16 affects the law pertaining to the acquisition of rights to mineral
17 deposits owned by any other person or government. The director, with
18 the approval of the commissioner, shall determine that land from which
19 mineral deposits may be mined only under lease, and, subject to the
20 limitations of AS 38.05.300, that land which shall be closed to min-
21 ing. State land may not be closed to mining or mineral location
22 unless the commissioner determines [MAKES A FINDING] that mining would
23 be incompatible with significant surface uses on the state land.
24 State land may not be restricted to mining under lease unless the
25 commissioner determines that potential use conflicts on the state land
26 require that mining be allowed only under written leases issued under
27 AS 38.05.205 or the commissioner has determined that the land was
28 mineral in character at the time of state selection. The determina-
29 tions required under this subsection shall be made in compliance with

1 land classification orders and land use plans developed under AS 38.-
2 05.206 or 38.05.300 [AS 38.05.300].

3 * Sec. 2. AS 38.05.205(b) is amended to read:

4 (b) Beginning on the date established by the commissioner under
5 AS 38.05.210, [THERE SHALL ACCRUE] an annual rental accrues for each
6 leasehold location or portion of a leasehold location, [THEREOF]
7 whether or not under lease, in the amounts established in AS 38.05.211
8 [NOT LESS THAN THE VALUE OF ANNUAL LABOR IMPROVEMENTS REQUIRED FOR
9 MINING CLAIMS. THE VALUE OF WORK DONE ON, OR FOR THE BENEFIT OF, THE
10 LEASEHOLD IN COMPLIANCE WITH AS 38.05.210 MAY BE CREDITED AGAINST THE
11 RENTAL].

12 * Sec. 3. AS 38.05 is amended by adding a new section to read:

13 Sec. 38.05.206. MINERAL CHARACTER DETERMINATIONS. (a) Within
14 three years after the receipt by the commissioner of a request for a
15 mineral character determination from the holder of the mining claim,
16 the commissioner shall determine under AS 38.05.243 whether the land
17 underlying a mining claim was mineral in character at the time of
18 state selection.

19 (b) A holder of a mining claim who fails to make a request for a
20 mineral character determination to the commissioner by September 1,
21 1990, or within one year from the location of the mining claim, which-
22 ever is later, shall make rental payments under AS 38.05.211 and
23 royalty payments under AS 38.05.212 until the commissioner makes a
24 mineral character determination concerning the land under AS 38.05.-
25 243. A holder of a mining claim who makes a request for a mineral
26 character determination to the commissioner by September 1, 1990, or
27 within one year after the location of the mining claim, whichever is
28 later, does not owe rental payments under AS 38.05.211 or royalty
29 payments under AS 38.05.212 until the commissioner makes the mineral

1 character determination under AS 38.05.243.

2 (c) On the determination by the commissioner that the land
3 underlying the mining claim was mineral in character at the time of
4 state selection, the holder of the mining claim is liable for rental
5 and royalty payments from the date of location.

6 (d) On the determination by the commissioner that the land
7 underlying the mining claim was not mineral in character at the time
8 of state selection and that the holder of the mining claim has made
9 rental payments under AS 38.05.211 or royalty payments under AS 38.-
10 05.212 on the claim, the commissioner shall refund to the holder of
11 the mining claim all rental and royalty payments paid on the mining
12 claim.

13 (e) If the commissioner fails to make a mineral character deter-
14 mination within three years from the date of a request for a deter-
15 mination, the amount of the rental and royalty due under AS 38.05.211
16 and 38.05.212 is reduced by 50 percent from the time that the deter-
17 mination was requested through the date that the determination is
18 made. The holder of a mining claim may request that any excess pay-
19 ment accumulated under this subsection be

20 (1) applied to rental and royalty payments due in subse-
21 quent years; or

22 (2) refunded.

23 * Sec. 4. AS 38.05 is amended by adding new sections to read:

24 Sec. 38.05.211. RENTAL. (a) Before production from a mining
25 claim begins in commercial quantities, the holder of a leasehold
26 location or mining lease shall pay to the state annual rental based on
27 the number of years since the location of the leasehold or of the
28 mining claim, as follows:

29 Years since Initial Location Rental per Acre per Year

1	0 - 10	\$.25
2	11 - 20	\$.50
3	21 or more	\$.75

4 (b) A leasehold location or a mining lease located on or before
5 August 31, 1989, is considered to have been located on August 31,
6 1989, for the determination of the rental due under this section.

7 Sec. 38.05.212. PRODUCTION ROYALTY. On production from a mining
8 claim in commercial quantities, the holder of a leasehold location or
9 mining lease shall pay as production royalty the greater of

10 (1) a two percent net income royalty determined under
11 AS 43.65.010 - 43.65.060; or

12 (2) the rental amount due under AS 38.05.211.

13 * Sec. 5. AS 38.05 is amended by adding a new section to read:

14 Sec. 38.05.243. DETERMINATION OF MINERAL CHARACTER. (a) Land
15 on which a mining claim is located was not mineral in character at the
16 time of state selection unless, on the date the state selected the
17 land underlying the mining claim, the land was known to contain a
18 valuable mineral deposit in sufficient quantities that a prudent
19 person at that time would have expended time and resources to develop
20 the mineral deposit with a reasonable belief that the minerals would
21 be marketable at a profit.

22 (b) Land underlying a mining claim does not contain a valuable
23 mineral deposit unless, based on facts known at the date the land was
24 selected by the state, the land

25 (1) contained an actual exposure of valuable minerals capa-
26 ble of being marketed at a profit;

27 (2) was contiguous to an existing mining claim with an
28 actual exposure of valuable minerals capable of being marketed at a
29 profit;

1 (3) was within one mile from a placer deposit that has
2 existing reserves that were producing or capable of producing valuable
3 minerals at a profit if the mining claim is a placer claim; or

4 (4) was within one mile of a known mineral deposit that has
5 produced or is capable of producing minerals at a profit if the mining
6 claim is a lode claim.

7 * Sec. 6. This Act takes effect August 31, 1989.