

HOUSE BILL NO. 317

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/31/18

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

1 AS 27.10.150 - 27.10.190] is void.

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

3 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
4 38.05.275 may be acquired or held only by **bona fide miners who are**

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

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

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

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

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

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

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

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

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

1 acquire, acquires, or holds exploration and mining rights under AS 38.05.185 -
 2 38.05.275 in good faith for purposes of mineral exploration and development and not
 3 for the prevention of mineral exploration or development.

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

5 (d) Locations may be amended in the manner and with the effect prescribed in
 6 AS 38.05.200. [ANNUAL LABOR SHALL BE PERFORMED AND STATEMENTS
 7 OF ANNUAL LABOR RECORDED AS PRESCRIBED IN AS 38.05.210 -
 8 38.05.235.]

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

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

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

17 (2) annual rental for a mining claim, leasehold location, or mining
 18 lease shall be based on the number of years since a mining claim, a leasehold location,
 19 or a mining lease's predecessor claim or leasehold location was first located; the
 20 annual rental amounts for a mining claim, leasehold location, or mining lease are as
 21 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
29 0 - 5	<u>\$1.29</u> [\$.50]	<u>\$50</u> [\$ 20]
30 6 - 10	<u>2.32</u> [\$1.00]	<u>95</u> [40]
31 11- or more	<u>5.27</u> [\$2.50]	<u>210</u> [100];

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

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

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

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

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

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

24 **Sec. 38.05.265. Abandonment.** (a) Failure to properly record a certificate of
 25 location [OR A STATEMENT OF ANNUAL LABOR], pay any required annual
 26 rental, or pay any required production royalty as required by AS 38.05.185 -
 27 38.05.200, **38.05.211, 38.05.212, 38.05.245** [38.05.210 - 38.05.245], 38.05.252 -
 28 38.05.275, and by regulations adopted under these sections constitutes abandonment
 29 of all rights acquired under the mining claim, leasehold location, or prospecting site
 30 involved, and the claim, leasehold location, or prospecting site is subject to relocation
 31 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.

1 * **Sec. 10.** AS 27.10.130, 27.10.150, 27.10.160, 27.10.170, 27.10.180, 27.10.190, 27.10.200,
2 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,
3 38.05.230, 38.05.235, 38.05.240, and 38.05.242 are repealed.

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

6 APPLICABILITY. Notwithstanding the effective date of this Act, the amendments to
7 AS 27.10.010 by sec. 1 of this Act, the amendments to AS 38.05.195 by sec. 4 of this Act, the
8 amendments to AS 38.05.265 by sec. 8 of this Act, and the repeal of AS 27.10.130,
9 27.10.150, 27.10.160, 27.10.170, 27.10.180, 27.10.190, 27.10.200, 27.10.210, 27.10.220,
10 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,
11 38.05.240, and 38.05.242 by sec 10 of this Act, apply only to labor years beginning on and
12 after September 1, 2018. The provisions in AS 27.10.010, 27.10.130, 27.10.150, 27.10.160,
13 27.10.170, 27.10.180, 27.10.190, 27.10.200, 27.10.210, 27.10.220, 27.10.230, 27.10.240,
14 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,
15 and 38.05.242, as those sections read the day before the effective date of secs. 1, 4, and 10 of
16 this Act, apply to any annual labor requirements, including requirements to record affidavits
17 or statements of labor, for the labor year that began September 1, 2017, and that ends
18 September 1, 2018. The provisions of AS 38.05.265(a) and (b), as those sections read on the
19 day before the effective date of secs. 8 and 9 of this Act, apply to any annual labor
20 requirements for the labor year that began September 1, 2017, and that ends September 1,
21 2018, except that under AS 38.05.265(c), a penalty is not required to cure where a failure to
22 record a statement of labor alone constituted the abandonment.

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

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

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

31 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.