

SENATE BILL NO. 155

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR BISHOP

Introduced: 1/21/20

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to exploration and mining rights; relating to annual labor
2 requirements with respect to mining claims and related leases; relating to statements of
3 annual labor; defining 'labor'; and providing for an effective date."

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

5 * **Section 1.** AS 38.05.190(a) is amended to read:

6 (a) **Except as provided in (b) of this section,** [THE RIGHT TO ACQUIRE]
7 exploration and mining rights under AS 38.05.185 - 38.05.275 may be acquired or
8 held only by

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

10 (2) legal guardians [OR TRUSTEES] of citizens of the United States
11 under 18 years of age on behalf of the citizens;

12 (3) **individuals** [PERSONS] at least 18 years of age who have
13 declared their intention to become citizens of the United States;

14 (4) aliens at least 18 years of age if the laws of their country grant like

1 privileges to citizens of the United States;

2 (5) corporations, limited liability companies, or other entities that
 3 are organized under the laws of the United States or of any state or territory of the
 4 United States and qualified to do business in this state;

5 (6) trusts for which at least one trustee is a person described in (1)
 6 - (5) of this subsection; or

7 (7) [(6)] associations of persons described in (1) - (6) [(1) - (5)] of this
 8 subsection.

9 * **Sec. 2.** AS 38.05.190(b) is repealed and reenacted to read:

10 (b) An unqualified person who acquires an interest in exploration or mining
 11 rights by conveyance or operation of law, or a person who was qualified under (a) of
 12 this section at the time of acquisition and later becomes unqualified, may either
 13 become qualified or transfer the interest to a qualified person within 90 days from the
 14 date the department sends written notice under (c) of this section. If the unqualified
 15 person does not cure the defect or transfer the interest to a qualified person, the
 16 department may declare the interest void under (d) of this section.

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

18 (c) If the department learns that an unqualified person has acquired an interest
 19 in exploration or mining rights through conveyance or operation of law, the
 20 department shall send written notice to the owner and address listed in the most recent
 21 statement of annual labor filed under AS 38.05.210(b) or to the address in the deed or
 22 assignment of the claim, stating that the interest will be void if the unqualified person
 23 does not cure the defect or transfer the interest.

24 (d) The department may declare void the exploration or mining interest of a
 25 person who fails to comply with (b) of this section but may not declare the interest
 26 void if the person becomes qualified under (e) of this section.

27 (e) An unqualified person may cure a defect in qualification, before or after
 28 receiving notice under (c) of this section, by becoming qualified or transferring the
 29 person's interest to a qualified person. A person may not cure a defect in qualification
 30 for an exploration or mining interest that has been declared void under (d) of this
 31 section.

(f) In this section, "qualified to do business in this state" means holding a certificate issued by the commissioner of commerce, community, and economic development necessary to conduct business in the state.

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

(b) The locator may locate a claim using one of the following methods:

(1) a locator may locate a claim based on the ground location of a [COMPLETE] quarter section or quarter-quarter section of a township on a rectangular survey system approved by the commissioner; a claim established in this manner may be known as a [THE] meridian, township, range, section, and claim system location, or MTRSC location; a locator using the MTRSC system to locate a claim shall in good faith mark the corners of a location as closely as practical to the existing quarter section or quarter-quarter section of the rectangular survey system approved by the commissioner; the corners marked on the ground of a claim established in accordance with this paragraph and regulations of the commissioner control in the event of a conflict over boundaries for the quarter section or quarter-quarter section on the protracted or actual survey approved by the commissioner; a valid MTRSC location establishes rights to deposits of minerals in or on all state lands within the quarter section or quarter-quarter section that are open to claim staking at the time of location; or

(2) a locator may locate a claim based on the staking of a ground location in which the claim may not exceed 1,320 feet in its longest dimension; the boundaries of a claim based on staking and located after January 1, 1985, shall run in the four cardinal directions unless the claim is a fractional claim or the commissioner determines that staking in compliance with this paragraph is impractical because of local topography or because of the location of other claims; a claim established in this manner may be known as a non-MTRSC location.

* **Sec. 5.** 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.]

1 * **Sec. 6.** AS 38.05.210(a) is amended to read:

2 (a) Labor shall be performed or improvements made annually on or for the
 3 benefit or development of each mining claim, leasehold location, and mining lease on
 4 state land except that, where adjacent claims, leasehold locations, or mining leases are
 5 held in common **and are being developed or operated under a common plan of**
 6 **development, either alone or with adjacent mineral interests**, the expenditure may
 7 be made on **or for the benefit of** any one claim, leasehold location, or mining lease.
 8 The commissioner shall establish the date of the commencement of the year during
 9 which the labor or improvements are to be performed. Labor shall be performed at the
 10 following annual rates: (1) \$100 **for each** [PER] claim, leasehold location, or lease if
 11 the claim, leasehold location, or lease is a quarter-quarter section MTRSC claim,
 12 leasehold location, or lease; (2) \$400 for each quarter section MTRSC claim,
 13 leasehold location, or lease; and (3) \$100 for each partial or whole 40 acres of each
 14 mining claim, leasehold location, or lease not established using the MTRSC system. If
 15 more work is performed than is required by this section to be performed in any one
 16 year, the excess value may be applied against labor required to be done during the
 17 subsequent year or years, for as many as four years. **For not more than five**
 18 **consecutive years, instead** [INSTEAD] of performing annual labor, the holder of a
 19 claim, leasehold location, or mining lease may make a cash payment to the state equal
 20 to the value of the labor required by this subsection.

21 * **Sec. 7.** AS 38.05.210(b) is amended to read:

22 (b) During the year in which annual labor is required or within 90 days after
 23 the close of that year, the owner of the mining claim, leasehold location, or mining
 24 lease, or some other person having knowledge of the facts, shall record with the
 25 recorder of the district in which the claim, leasehold location, or mining lease is
 26 located a signed statement **of annual labor. The individual who signs the statement**
 27 **shall certify that, to the best of the individual's knowledge, the information**
 28 **contained in the statement is true and correct. The statement must include**
 29 [SETTING OUT] the **following** information:
 30 **(1) the assessment work year for which the statement is being**
 31 **recorded;**

(2) the name of and land administration number assigned by the department for each mining claim, leasehold location, or mining lease benefited by the labor;

(3) each meridian, township, range, and section in which a mining claim, leasehold location, or mining lease is located;

(4) the recording district in which the mining claim, leasehold location, or mining lease is located;

(5) the total amount of work required for the assessment work year for a mining claim, leasehold location, or mining lease described in the statement;

(6) a description of the labor performed during the assessment work year;

(7) the value of the labor performed during the assessment work year;

(8) the name and mailing address of an owner designated to receive notices regarding a mining claim, leasehold location, or mining lease [, AS MAY BE REQUIRED BY THE COMMISSIONER, CONCERNING THE ANNUAL LABOR OF THE PRECEDING YEAR, ANY LABOR IN EXCESS OF THAT REQUIRED FOR THE PRECEDING YEAR, AND ANY PAYMENT OF CASH INSTEAD OF ANNUAL LABOR. THE STATEMENT, PROPERLY RECORDED, IS PRIMA FACIE EVIDENCE OF THE PERFORMANCE OF THE LABOR. THE FAILURE OF ONE OF SEVERAL CO-OWNERS TO CONTRIBUTE THE PROPORTION OF THE EXPENDITURES REQUIRED FOR ANNUAL LABOR FROM THE CO-OWNER SHALL BE TREATED IN ACCORDANCE WITH AS 38.05.215 - 38.05.235].

* **Sec. 8.** AS 38.05.210(c) is amended to read:

(c) The statement of annual labor required in (b) of this section, whether recorded before or after the effective date of this Act, may be corrected or amended at any time, regardless of when the statement of annual labor was recorded. A corrected or [WITHIN TWO YEARS OF THE DATE BY WHICH THE ANNUAL LABOR STATEMENT WAS REQUIRED TO BE RECORDED.

1 AN] amended statement **of annual labor** shall be recorded [FOR RECORD] in the
 2 same manner as the original statement. Additional labor claimed in **a corrected or**
 3 [AN] amended statement may not be applied against labor required to be done during
 4 a subsequent year.

5 * **Sec. 9.** AS 38.05.210 is amended by adding new subsections to read:

6 (e) A statement of annual labor, timely recorded, is prima facie evidence of
 7 the performance of the labor.

8 (f) The department may not declare a mining claim or leasehold location
 9 invalid based on a deficiency in a statement of annual labor until 90 days after the date
 10 the department sends written notice to the owner of the mining claim or leasehold
 11 location at the address provided in the most recent statement of annual labor recorded
 12 under (b) of this section. The department is not required to review whether a statement
 13 of annual labor meets the requirements in (b) of this section or regulations adopted by
 14 the department to implement this chapter.

15 (g) A decision by the department or an action brought by a third party to
 16 declare a mining claim, leasehold location, or mining lease invalid based on a
 17 deficiency in a statement of annual labor must be issued or commenced not later than
 18 five years after the date the statement of annual labor is recorded.

19 (h) The failure of one of several co-owners to contribute the proportion of the
 20 expenditures required for annual labor from the co-owner shall be treated in
 21 accordance with AS 38.05.215 - 38.05.235.

22 * **Sec. 10.** AS 38.05.240 is amended to read:

23 **Sec. 38.05.240. Labor defined for AS 38.05.210 - 38.05.235.** In AS 38.05.210
 24 - 38.05.235, "labor" includes

25 **(1) work performed or improvements made in good faith on or for**
 26 **the benefit of a mining claim, leasehold location, or mining lease that is directly**
 27 **related to prospecting, developing, or producing minerals;**

28 **(2) costs of persons, materials, services, and equipment used for**
 29 **activities for the benefit of a mining claim, leasehold location, or mining lease,**
 30 **including**

31 **(A) prospecting for minerals;**

1 (B) excavating, tunneling, drilling, or clearing brush or
 2 timber;

3 (C) constructing or maintaining roads, trails, or landing
 4 strips;

5 (D) extracting or producing ore;

6 (E) performing a metallurgical analysis, an environmental
 7 study, or an economic feasibility study, or conducting engineering or
 8 permitting activity;

9 (F) constructing settling ponds, water supplies, or other
 10 utilities;

11 (G) providing worker housing;

12 (H) performing reclamation activities under a reclamation
 13 plan approved under AS 27.19.030;

14 (I) transporting workers and equipment in the state to or
 15 from a mining site; the claimed value of transportation under this
 16 subparagraph may not exceed 50 percent of the total value of labor in a
 17 statement of annual labor recorded under AS 38.05.210(b) for the
 18 assessment year;

19 (J) conducting a geological, geochemical, geophysical, or
 20 [AND] airborne survey [SURVEYS CONDUCTED] by a qualified expert
 21 [EXPERTS] and verified by a [DETAILED] report filed in the recording
 22 district office in which the claim, leasehold location, or mining lease is located
 23 that [WHICH] sets out

24 (i) [FULLY (1)] the location of the survey [WORK
 25 PERFORMED] in relation to the [POINT OF DISCOVERY AND]
 26 boundaries of the claim, leasehold location, or mining lease;

27 (ii) [, (2)] the nature, extent, and cost of the survey;
 28 [IT,] and

29 (iii) [(3)] the name, address, and professional
 30 background of the person conducting the work; the [. THE]
 31 commissioner, by regulation, shall define the nature of acceptable

survey work and the qualifications of a person competent to perform the [THIS] work; an [. THE] airborne survey conducted under this subparagraph [SURVEYS, HOWEVER, MAY NOT BE APPLIED AS LABOR FOR MORE THAN TWO CONSECUTIVE YEARS OR FOR MORE THAN A TOTAL OF FIVE YEARS ON ANY ONE MINING CLAIM, LEASEHOLD LOCATION, OR MINING LEASE, AND EACH OF THOSE SURVEYS] shall be nonrepetitive of any previous survey on the same claim, leasehold location, or mining lease.

* **Sec. 11.** AS 38.05.265(a) is amended to read:

(a) Failure to perform the labor or make improvements or make a payment in lieu of labor under AS 38.05.210(a), timely [PROPERLY] record a certificate of location or [A] statement of annual labor, timely pay any required annual rental, or timely pay any required production royalty under AS 38.05.212 [AS REQUIRED BY AS 38.05.185 - 38.05.200, 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 section. A locator or claimant of an abandoned location or a successor in interest may not relocate the claim, leasehold location, or prospecting site until one year after abandonment. The locator of an abandoned prospecting site may locate a claim or leasehold location on that site at any time. [A STATEMENT OF ANNUAL LABOR THAT DOES NOT ACCURATELY SET OUT THE ESSENTIAL FACTS IS VOID AND OF NO EFFECT.] If an annual rental or a royalty payment is deficient but is otherwise timely paid, abandonment does not result if full payment is made within

(1) the period prescribed by a deficiency notice from the department [COMMISSIONER]; or

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

* **Sec. 12.** AS 38.05.275(a) is amended to read:

(a) Mining locations made on state land, including shoreland, tideland, or submerged land, or state selected land, under AS 38.05.185 - 38.05.275 or in the manner described in AS 27.10, acquire for the locator mining rights under AS 38.05.185 - 38.05.275, subject to existing claims and to any denial of or restriction in the tentative approval of state selection or patent of the land to the state. If shoreland, tideland, or submerged land is included in a mining location or within the projected boundaries of a mining location made in accordance with this section, the locator shall record a certificate of location under AS 38.05.195. The certificate of location must identify the position of the mining location in the system of rectangular or protracted surveys. If the mining location is made in the manner described in AS 27.10, the commissioner may require that the locator amend the mining location to conform with AS 38.05.185 - 38.05.275 and thereafter to comply with the requirements of AS 38.05.185 - 38.05.275. **A mining location on state selected land located within an active unpatented federal mining claim may be located only by or with the written and recorded permission of the holder of the unpatented federal mining claim.**

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

APPLICABILITY. (a) AS 38.05.210(c), as amended by sec. 8 of this Act, applies to statements of annual labor filed before, on, or after the effective date of this Act.

(b) AS 38.05.210(e) - (g), enacted by sec. 9 of this Act, apply to all pending claims or actions filed before, on, or after the effective date of this Act.

(c) AS 38.05.275(a), as amended by sec. 12 of this Act, applies to mining locations made on state selected land on or after July 1, 2020.

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

TRANSITION. Until the Department of Natural Resources adopts regulations consistent with the changes made in this Act, the Department of Natural Resources may not declare a mining claim, leasehold location, or prospecting site abandoned under AS 38.05.265, as amended by sec. 11 of this Act, on the basis that a statement of annual labor fails to include the information required by AS 38.05.210, as amended by secs. 6 - 9 of this

1 Act.

2 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).