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Compilation of AS 38.05.185-.275 as amended by SB 155

Note: The applicability of certain sections of SB 155 is set forth in uncodified provisions included at the end of this document.

MINING RIGHTS

AS 38.05.185 (Generally):

(a) The acquisition and continuance of rights in and to deposits on state land of minerals, which on January 3, 1959, were subject to location under the mining laws of the United States, shall be governed by AS 38.05.185–38.05.275. Nothing in AS 38.05.185–38.05.275 affects the law pertaining to the acquisition of rights to mineral deposits owned by any other person or government. The director, with the approval of the commissioner, shall determine that land from which mineral deposits may be mined only under lease, and, subject to the limitations of AS 38.05.300, that land that shall be closed to location under AS 38.05.185–38.05.275. State land may not be closed to location under AS 38.05.185–38.05.275 except as provided in AS 38.05.300 and unless the commissioner makes a finding that mining would be incompatible with significant surface uses on the state land. State land may not be restricted to mining under lease unless the commissioner determines that potential use conflicts on the state land require that mining be allowed only under written leases issued under AS 38.05.205 or the commissioner has determined that the land was mineral in character at the time of state selection. The determinations required under this subsection shall be made in compliance with land classification orders and land use plans developed under AS 38.05.300.

(b) The failure on the part of a mining lessee or a locator to comply strictly with AS 38.05.185–38.05.275 and regulations adopted under those sections does not invalidate the rights of a mining lessee or a locator if it appears to the satisfaction of the commissioner that the mining lessee or the locator complied as nearly as possible under the circumstances of the case, and that no conflicting rights are asserted by any other person.

(c) Unless otherwise provided, the usages and interpretations applicable to the mining laws of the United States as supplemented by state law apply to AS 38.05.185–38.05.275.

AS 38.05.190 (Qualifications):

(a) Except as provided in (b) of this section, exploration and mining rights under AS 38.05.185–38.05.275 may be acquired or held only by

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

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(2) legal guardians, conservators, or trustees of citizens of the United States under 18 years of age or citizens of the United States that are incapacitated adults under AS 13.26 on behalf of the citizens;

(3) individuals 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, limited liability companies, or other entities that are 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) trusts that are registered in this state under AS 13.36 and for which at least one trustee is a person described in (1)–(5) of this subsection; or

(7) associations of persons described in (1)–(6) of this subsection.

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

(c) If the department learns that an unqualified person has acquired an interest in exploration or mining rights through conveyance or operation of law, the department shall send written notice to the owner by certified mail, return receipt requested, to the most recent address on file with the department, stating that the interest will be void if the unqualified person does not cure the defect or transfer the interest within 90 days. The department may send an additional copy of the notice by regular mail.

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

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

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(f) If an unqualified person fails to cure a defect in qualification within 90 days after the department sends written notice under (c) of this section, the department may declare the exploration or mining interest void and the affected land becomes open to location. A third party may not locate on the affected land or file a judicial action to declare the exploration or mining interest invalid within those 90 days.

(g) 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.

AS 38.05.195 (Mining Claims):

(a) Rights to deposits of minerals subject to AS 38.05.185–38.05.275 in or on state land that is open to claim staking may be acquired by discovery, location, and recording as prescribed in AS 38.05.185–38.05.275. The locator has the exclusive right of possession and extraction of the minerals subject to AS 38.05.185–38.05.275 lying within the boundaries of the claim.

(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 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 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 land within the quarter section or quarter-quarter section that is 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.

(c) A location’s corners shall be distinctly marked on the ground in the manner prescribed by the commissioner, and a notice of location shall be attached to a monument at the claim’s northeast corner in the manner and containing the information required by the commissioner. Within 45

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days after the date of attaching the notice of location on the monument, the locator shall record a certificate of location in the recording district where the claim is located. The certificate of location must contain the information required by the commissioner.

(d) Locations may be amended in the manner and with the effect prescribed in AS 38.05.200.

AS 38.05.200 (Changes in locations and amended notices):

Notices may be amended at any time and monuments changed to correspond with the amended location but a change may not be made that interferes with the rights of others. Whenever monuments are changed or an error is made in the notice or in the certificate of location, an amended certificate of location shall be recorded in the same manner and with the same effect as the original certificate.

AS 38.05.205 (Mining leasing):

(a) Prior discovery, location, and recording shall initiate prior rights to mineral deposits subject to AS 38.05.185–38.05.275 in or on state land, other than submerged land, which is open to mining leasing. Locations shall be made and certificates of location recorded in accordance with AS 38.05.195. If the located land is available only for leasing, the director shall publish in a paper of general circulation in the area of the location, notice of the recording of the location and notice that a mineral lease will be issued. The notice may be combined with notices of locations either in the same general area or statewide. Unless a conflicting location exists, no later than two weeks after publication of the notice, an application form for a mining lease shall be mailed to the locator by the director. A lease application shall be filed with the director by the locator within 90 days after receipt of the form. If the located land is not available for leasing, notice shall be given the locator by the director and the locator’s prior rights shall terminate. A mining lessee has the exclusive rights of possession and extraction of all minerals subject to AS 38.05.185–38.05.275 lying within the boundaries of the lease or location. Mining leases may be issued for one location or for a group of contiguous locations held in common. Minerals may not be mined and marketed or used until a lease is issued, except for limited amounts necessary for sampling or testing.

(b) Repealed.

(c) A mining lease shall be for any period up to 55 years, and is renewable if requirements for the lease remain satisfied. Annual rental and production royalties shall be paid as required under AS 38.05.211 and 38.05.212. A valid mining claim located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the commissioner. Rights granted by a mining lease may not be exercised until the lease has been filed for record in the recording district where the land is located.

AS 38.05.207 (Repealed)

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AS 38.05.210 (Annual labor):

(a) Labor shall be performed or improvements made annually on or for the benefit or development of each mining claim, leasehold location, and mining lease on state land, except that, where adjacent claims, leasehold locations, or mining leases are held in common, including adjacent federal or private mineral interests held in common, the expenditure may be made on or for the benefit of any one claim, leasehold location, mining lease, or mineral interest. The commissioner shall establish the date of the commencement of the year during which the labor or improvements are to be performed. Labor shall be performed at the following annual rates: (1) \$100 for each claim, leasehold location, or lease if the claim, leasehold location, or lease is a quarter-quarter section MTRSC claim, leasehold location, or lease; (2) \$400 for each quarter section MTRSC claim, leasehold location, or lease; and (3) \$100 for each partial or whole 40 acres of each mining claim, leasehold location, or lease not established using the MTRSC system. If more work is performed than is required by this section to be performed in any one year, the excess value may be applied against labor required to be done during the subsequent year or years, for as many as four years. For not more than five consecutive years, instead of performing annual labor, the holder of a claim, leasehold location, or mining lease may make a cash payment to the state equal to the value of the labor required by this subsection.

(b) During the year in which annual labor is required or within 90 days after the close of that year, the owner of the mining claim, leasehold location, or mining lease, or some other person having knowledge of the facts, shall record with the recorder of the district in which the claim, leasehold location, or mining lease is located a signed statement of annual labor. The individual who signs the statement shall certify that, to the best of the individual's knowledge, the information contained in the statement is true and correct. The statement must include the following information:

- (1) the assessment work year for which the statement is being 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

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- (A) the labor performed during the assessment work year;
- (B) any excess labor value from a previous year applied against the labor required; or
- (C) any cash payment to the state applied toward the value of the annual labor required under (a) of this section;

(8) the name and mailing address of an owner designated to receive notices regarding a mining claim, leasehold location, or mining lease.

(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 before the 90-day period under (g) of this section has passed or in accordance with AS 38.05.265(b). A corrected or amended statement of annual labor shall be recorded in the same manner as the original statement. Additional labor claimed in a corrected or amended statement may not be applied against labor required to be done during a subsequent year.

(d) Repealed.

(e) A single statement of annual labor may be recorded for labor performed on or for the benefit of more than one mining claim, leasehold location, or mining lease.

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

(g) The department may not declare a mining claim or leasehold location invalid based on a deficiency in a statement of annual labor until 90 days after the date the department sends written notice regarding a deficiency in the statement to the owner of the mining claim or leasehold location by certified mail, return receipt requested, to the most recent address on file with the department. The department may send an additional copy of the notice by regular mail.

(h) If a person fails to correct a deficient statement of annual labor within 90 days after notice is sent under (g) of this section, the department may declare the mining claim or leasehold location invalid and the affected land becomes open to location. A third party may not locate on the affected land or file a judicial action to declare the mining claim or leasehold location invalid within those 90 days.

(i) The department may not declare a mining claim, leasehold location, or mining lease invalid based on a deficiency in a statement of annual labor, and a third party may not file a judicial action seeking invalidation as the result of a deficiency in a statement of annual labor, later than five years after the date the deficient statement of annual labor is recorded.

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(j) 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.

AS 38.05.211 (Annual rental):

(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 \$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:

Number of Years Since First Located	Rental Amount Per Acre for Mining Leases	Rental Amount for Each Mining Claim or Leasehold Location, Including Each Quarter-Quarter Section MTRSC System
0–5	\$.50	\$ 20
6–10	\$1.00	40
11–or more	\$2.50	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.

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

(c) The rental for each year shall be credited against the production royalty under AS 38.05.212 as it accrues for that year.

(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.

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The reference base index is the index for January-June 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.

(e) The locator of a new claim or leasehold location in accordance with the MTRSC system or the locator of a non-MTRSC location claim or leasehold location who amends the claim or leasehold location in accordance with the MTRSC system is entitled to a reduced rental under this section for the rental year following establishment of the new location or amendment of a non-MTRSC location. The reduced annual rental is 50 percent of the annual rental that would otherwise be due in the following rental year.

AS 38.05.212 (Production royalty):

(a) In exchange for and to preserve the right to extract and possess the minerals produced, the holder of a mining claim, leasehold location, or mining lease, including a mining lease under AS 38.05.250, shall pay a royalty on all minerals produced from land subject to the claim, leasehold location, or mining lease during each calendar year, or each fiscal year if the miner does not file the mining license tax on a calendar year basis.

(b) The production royalty

(1) is three percent of net income as determined under AS 43.65; and

(2) is subject to the exploration incentive credit authorized by AS 27.30.

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

AS 38.05.215 (Notice to co-owners to contribute to cost of annual labor or improvements and forfeiture for failure to contribute):

If one of several co-owners fails to contribute the proportion of the expenditures required for annual labor from the co-owner, the co-owners who have performed the labor or made the improvements may, at the expiration of the annual labor year, give the delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim for at least once a week for 90 days. If at the expiration of 90 days after the service of the notice in writing, or 90 days after the completion of the publication the delinquent fails or refuses to contribute the required proportion of the expenditures, the interest of the delinquent co-owner in the claim is forfeited to the co-owners who have made the expenditures.

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AS 38.05.220 (Recording the notice to contribute and affidavits):

(a) Within 120 days after personal service, or within 120 days after the completion of publication of the notice provided for in AS 38.05.215, the co-owner who claims the forfeiture shall record in the office of the recorder of the recording district in which the claim is located a copy of the notice with the following affidavits attached:

(1) an affidavit of the person serving the notice giving the time, place, and manner of service and by whom and upon whom the service was made or, if service was made by publication in a newspaper, an affidavit of the editor, publisher, printer, or foreman of the newspaper giving the name of the newspaper, the place where, and the time during which the notice was published and the number of insertions;

(2) an affidavit of the co-owner who claims the forfeiture stating that neither the delinquent co-owner nor any person acting for the delinquent co-owner has paid or tendered to the affiant the delinquent's proportion of the expenditures for annual labor or improvements.

(b) The record of the notice and affidavits or a certified copy of it is prima facie evidence of the facts contained in it.

AS 38.05.225 (Lienholder may perform the annual labor):

A person who holds a claim to or lien upon an unpatented mining claim under a certificate of sale, mortgage, attachment, levy, judgment, or other lien may, when necessary for the protection of the lien or claim, go upon the mining claim and perform or cause to be performed the annual labor required by law to prevent forfeiture. Before performing the labor the claimant or lien holder shall mail a written notice of intent to perform the annual labor on the claim to the owner of the claim at the last known address of the owner of the claim.

AS 38.05.230 (Lien for performance of annual labor):

(a) The person performing or causing to be performed annual labor upon an unpatented mining claim as provided in AS 38.05.225 shall have a lien upon the claim for the assessment work, including the reasonable cost of transportation to and from the claim incurred in doing the work. The lien is enforced either as in other suits for the foreclosure of liens upon real property or as supplemental accruing costs in an action, if any, then pending in which the claim has been levied upon by attachment, execution, or other court process.

(b) A person claiming a lien under this section shall, within 90 days after the completion of the annual labor for which the lien is claimed, record in the office of the recorder of the recording district in which the property on which the lien is claimed is situated a notice of claim of lien, verified by the oath of the person claiming the lien or that of some other person having

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knowledge of the facts, and stating the name of the owner or reputed owner of the property, the amount of the claim, the time of the performance of the annual labor for which the lien is claimed, the nature of the labor done or improvements made, and the amount of the claim, including costs of transportation, after deducting all just credits and offsets.

(c) An independent suit or action brought to enforce a lien under this section shall be commenced within six months after the recording of the notice of claim of lien.

AS 38.05.235 (Lien for annual labor is independent of other liens):

The lien given for the performance of annual labor by AS 38.05.230, if the work is done in good faith and necessarily for the protection either of possession under a certificate of sale or of an attachment, levy, mortgage, judgment, or other lien, remains in effect notwithstanding the contemporaneous or subsequent vacation, dissolution, or setting aside of, or redemption from, the certificate of sale, attachment, levy, mortgage, judgment, or other lien.

AS 38.05.240 (Labor defined for AS 38.05.210–38.05.235):

In AS 38.05.210–38.05.235, “labor” includes work performed or improvements made in good faith on or for the benefit of a mining claim, leasehold location, or mining lease that is directly related to exploring for, developing, or producing minerals, including

- (1) excavating, tunneling, drilling, or clearing land;
- (2) constructing or maintaining roads, trails, or landing strips;
- (3) extracting or producing ore;
- (4) performing a metallurgical analysis, an environmental study, or an economic feasibility study, or conducting engineering or permitting activity;
- (5) constructing settling ponds, water supplies, or other utilities;
- (6) providing worker housing;
- (7) performing reclamation activities under a reclamation plan approved under AS 27.19.030;
- (8) transporting workers and equipment in the state to or from a mining site; the claimed value of transportation under this paragraph may not exceed 50 percent of the total value of labor in a statement of annual labor recorded under AS 38.05.210(b) for the assessment work year;

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(9) conducting a geological, geochemical, geophysical, or airborne survey by a qualified expert and verified by a report filed in the recording district office in which the claim, leasehold location, or mining lease is located that sets out

(A) the location of the survey in relation to the boundaries of the claim, leasehold location, or mining lease;

(B) the nature, extent, and cost of the survey; and

(C) the name, address, and professional background of the person conducting the work; the commissioner, by regulation, shall define the nature of acceptable survey work and the qualifications of a person competent to perform the work; an airborne survey conducted under this paragraph shall be nonrepetitive of any previous survey on the same claim, leasehold location, or mining lease.

AS 38.05.242 (Definitions for AS 38.05.210–38.05.240):

In AS 38.05.210–38.05.240,

(1) “airborne survey” means a survey from the air for mineral deposits by the proper application of magnetometers, electromagnetic input systems, infrared detectors, side-looking radar, vertical and panoramic cameras, and other devices as they relate to the search for and discovery of mineral deposits;

(2) “geochemical surveys” means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) “geological surveys” means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(4) “geophysical surveys” means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuances in geological formations;

(5) “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;

(6) “qualified expert” means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys, as the case may be.

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AS 38.05.245 (Prospecting sites):

(a) Before the discovery of valuable minerals, an exclusive right to prospect by geophysical, geochemical, and similar methods may be acquired by establishing a prospecting site in accordance with the MTRSC system and regulations prescribed by the commissioner. A certificate of location shall be recorded in the recording district where the prospecting site is located within 45 days after posting the notice of location. The locator of a prospecting site has the exclusive right to stake mining claims or leasehold locations within the boundaries of the site. In this subsection, “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.

(b) A prospecting site location may not include within its exterior boundaries, nor shall its boundaries be coincident with more than one boundary of any mining claim, mining leasehold location, or land under a mining lease, unless the locator of the prospecting site is also the owner, optionee, or lessee of said mining property. If such mining property or area is so included or bounded, the prospecting site is void.

(c) A prospecting site remains in effect for two years after the notice of location is attached to a monument at the northeast corner of the site if the one-time rental payment is made within 45 days of location and the work requirements are met. The two-year term begins on the date the notice of location is attached to the monument and may not be extended. During each year, work of a type compatible with the purpose of this section and acceptable to the director shall be done. The minimum expenditure for the work shall be established by the commissioner uniformly for all prospecting sites. Where adjacent prospecting sites are held in common, the expenditure may be made on any one or more locations. If a prospecting site expires, neither the locator nor a successor in interest of the locator may again hold the same prospecting site or any portion of it, as a prospecting site, for a period of one year following the date of expiration or abandonment.

AS 38.05.250 (Prospecting permits and leases on tide and submerged land):

(a) The exclusive right to prospect for deposits of minerals subject to AS 38.05.185–38.05.275 in or on tide and submerged state land may be granted by a permit issued by the director. A permit shall be granted to the first qualified applicant. A permit may not include an area larger than 2,560 acres, subject to the rule of approximation. Land subject to a prospecting permit shall be as compact in form as possible taking into consideration the area involved. The term of the permit shall be 10 years. Prospecting permits shall be conditioned upon payment of rental against which credit shall be given for useful expenditures on land covered by the permit or group of contiguous permits under common ownership or assignment. Excess expenditures may be applied against rentals due for the following four years. The rental shall be \$3 per acre for the first two-year period of the permit, payable on the second anniversary of the permit and \$3 per acre for each following year, payable annually on the anniversary date of the permit. Minerals from land under a prospecting permit may not be mined and marketed or used, except for limited amounts necessary for sampling or testing. A person may not take or hold prospecting permits for minerals on state land under this section exceeding in the aggregate 300,000 acres. A person

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may not take or hold leases for minerals on state land under this section exceeding in the aggregate 100,000 acres.

(b) A noncompetitive lease shall be granted to a holder of a prospecting permit for so much of the land subject to the permit as is shown to the satisfaction of the director to contain workable mineral deposits. Submerged land containing known deposits of minerals subject to AS 38.05.185–38.05.275 may, in the discretion of the director, be offered by competitive bid. The land shall be leased to the qualified person offering the highest amount of cash bonus.

(c) Each submerged land mining lease shall be for a period of up to 20 years and for so long as there is production in paying quantities from the leased area. A submerged land mining lease may be renewed for a period of up to 20 years at the discretion of the director if the director determines that the renewal is in the best interests of the state.

(d) The commissioner may, on the request of the lessee, assent to the suspension of operation and production under a lease whenever in the judgment of the commissioner the suspension is necessary to promote development of the lease or the lease cannot be successfully operated under its terms. The payment of acreage rental may be suspended during the period of suspension of operation and production. The suspension of the lease shall extend the term of the lease by adding the period of suspension to the lease. The commissioner may extend the term of a nonproducing lease on an application by the lessee accompanied by a showing that the lessee is reasonably close to attaining production and that, despite diligent good faith efforts by the lessee, the lessee is not able to produce due to force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee. A suspension or extension granted under this subsection may not exceed two years.

AS 38.05.252 (Extralateral rights under shore, tide, and submerged land):

(a) Extralateral rights under shoreland, tideland, and submerged land are confirmed and granted to an owner of a lode mining claim located before January 3, 1959, under the mining laws of the United States.

(b) In this section, “extralateral rights” means rights given to an owner of a mining claim under 30 U.S.C. 26 to follow, and mine, any vein or lode the apex of which lies within the boundaries of the location of the surface of the mining claim, notwithstanding that the course of the vein or lode on its dip or downward direction may so far depart from the perpendicular as to extend beyond the planes which would be formed by the vertical extension downwards of the sidelines of the location.

AS 38.05.255 (Surface use of land or water):

(a) Surface uses of land or water included within a mining property by the owners, lessees, or operators shall be limited to those necessary for the prospecting for, extraction of, or basic processing of minerals and shall be subject to reasonable concurrent uses. Leases for millsites,

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tailings disposal, and other mine related facilities may be issued by the director. The leases shall be conditioned upon payment of a reasonable annual rent for the lease and restricted to uses approved by the director. Timber from land open to mining without lease, except timberland, may be used by a mining claimant or prospecting site locator for the mining or development of the location or adjacent claims under common ownership. On other land, timber may be acquired as provided in this chapter. Use of water shall be made in accordance with AS 46.15.

(b) A lease issued under this section is exempt from the provisions of AS 38.05.075–38.05.080.

AS 38.05.260 (Repealed):

AS 38.05.265 (Abandonment):

(a) Failure to perform the labor or make improvements or make a payment in lieu of labor under AS 38.05.210(a), timely record a certificate of location or statement of annual labor, timely pay any required annual rental, or timely pay any required production royalty under AS 38.05.212 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. 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; or

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

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

(1) properly recording a certificate of location or a statement of annual labor, paying any required annual rental, and paying any required production royalty; and

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

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AS 38.05.270 (Transfers):

Evidence of a sale, lease, or other transfer of mining property or interest in mining property shall be recorded.

AS 38.05.275 (Recognition of locations):

(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.

(b) In this section, “state selected land”

(1) means land for which the state has filed a selection application with the United States under Sec. 6 of the Alaska Statehood Act, as amended, regardless of the validity or effect of the application, if the selection described in the application has not been rejected or relinquished;

(2) does not include land described in (1) of this subsection for which a regional corporation organized under 43 U.S.C. 1606(a), as amended, a village corporation organized under 43 U.S.C. 1607(a), as amended, a Native group corporation that qualifies for a land conveyance under 43 U.S.C. 1613(h)(2), as amended, or a Native urban corporation that qualifies for a land conveyance under 43 U.S.C. 1613(h)(3), as amended, has filed a valid selection application with the United States under 43 U.S.C. 1601 - 1641, as amended, if the selection of the corporation or group has not been rejected or relinquished.

(c) Subsection (b) of this section may not be construed to limit the director in the exercise of authority granted by AS 38.05.035(a)(11).

AS 38.05.283 (Department review):

The department is not required to determine whether an owner of a mining claim, leasehold

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location, or mining lease is in compliance with this chapter or the regulations adopted under this chapter.

See Uncodified Provisions of SB 155 below.

Uncodified Provisions of SB 155

Sec. 15. The uncodified 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, and AS 38.05.210(e) - (i), enacted by sec. 9 of this Act, apply to statements of annual labor filed before, on, or after the effective date of this Act, if, before the effective date of this Act, a final decision or judgment has not been entered invalidating the mineral interest and, after the final decision or judgment, a claim has not been located or a leasehold granted on the affected land.

(b) AS 38.05.275(a), as amended by sec. 13 of this Act, applies to mining locations made on state selected land on or after the effective date of this Act.

Sec. 16. The uncodified 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 Act.

Sec. 17. This Act takes effect immediately under AS 01.10.070(c).