



**Background:**

Every year, hundreds of mining claims and prospecting sites are abandoned due to operation of law. This Fact Sheet identifies the Abandonment Law and provides information about the options available to cure your claim under the law. These options are not available however, if someone has located a mining claim or leasehold location that includes all or part of the mining claim or leasehold location.

**What is the Abandonment Law?**

**The abandonment law is Sec. 38.05.265. Abandonment. The law states:**

- (a) Failure to properly record a certificate of location or a statement of annual labor, pay any required annual rental, or pay any required production royalty 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 commissioner; 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 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.

**What Triggers Abandonment?**

**The following are examples of situations that will result in abandonment of a location by operation of law (AS 38.05.265):**

- Errors or omissions on Location Certificates. Claim certificates must include a posting date, locator name and address, signature and adequate legal description or sketch map on a new location certificate of location. (11 AAC 86.210)
- Failure to record a new location in the proper Recording District. Location certificates must be recorded within the recording district that the claim is located within.
- Failure to timely record a new location within 45 days of the posting date. (AS 38.05.195, 11 AAC 86.215)
- Failure to timely pay the first required rental payment within 45 days of the posting date. (AS 38.05.211, 11 AAC 86.215)
- Failure to timely pay the first required rental payment within 90 days of the Date of Conveyance for claims on State Selected Land (11 AAC 86.115, 11 AAC 86.215)
- Failure to timely pay recurring annual rental within 90 days of September 1 each year. (AS 38.05.211, 11 AAC 86.215)
- Failure to timely record an affidavit of annual labor (if due) within 90 days of September 1 each year or to make an optional timely cash-in-lieu annual labor payment by September 1. (AS 38.05.210, 11 AAC 86.220)
- Failure to timely file a Production Royalty Return by May 1<sup>st</sup> each year if production occurs on a location during the previous year. (11 AAC 86.790)

## **Options Under the Law**

If a location becomes abandoned by operation of law due to one of the situations above, the locator has several options under law to reacquire the mineral rights. **Please note: these options are only available if there are no conflicting mineral rights (AS 38.05.265).**

- All locators affected by abandonment **must** pay a penalty equal to the amount of annual rental as indicated by the department for the location abandoned in addition to correcting the action that resulted in the abandonment such as:
- Properly record a certificate of location;
- Properly record a statement of annual labor;
- Pay any required annual rental;
- Pay any required production royalty;
- Wait one year from the date of abandonment and re-locate the mineral rights with a new claim if the rights are still available and nobody else has laid claim to the mineral rights. (AS 38.05.265)
- If a locator believes they have substantially complied with the law, they may ask the department for a copy of “Policy Memorandum 02” *Standards for Issuance of a Certificate of Substantial Compliance for Untimely Payment of Annual Rent, Production Royalty, or Untimely Recording of a Document* to see if they qualify for issuance of a Certificate of Substantial Compliance to cure the abandonment. If so, they may submit an application for Substantial Compliance. The fee is \$250. (AS 38.05.185 and 11 AAC 86.125)

## **Where can you get more information**

For more information about the Abandonment Process and how to cure your claim, please contact a Public Information Center. These offices will assist you or forward you to a particular staff person in the Mining Section of the division of Mining, Land and Water who can assist you.

### **Anchorage Public Information Center**

Department of Natural Resources  
Public Information Center  
550 West 7th Ave., Suite 1260  
Anchorage, Alaska 99501-3557  
Monday thru Friday / 10:00 AM to 5:00 PM  
(907) 269-8400 TDD: (907) 269-8411

### **Fairbanks Public Information Center**

Department of Natural Resources  
Public Information Center  
3700 Airport Way  
Fairbanks, Alaska 99709-4699  
Monday thru Friday / 10:00 AM to 5:00 PM  
(907) 451-2705 TDD (907) 451-2770