

# MAINE STATE LEGISLATURE

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PART 5  
MINING

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## CHAPTER 401

## MINING BUREAU

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**§ 2101. Establishment**

The Maine Mining Bureau, as heretofore established, shall consist of 7 members, one each from the State Departments of Agriculture, Forestry, State, Economic Development and Inland Fisheries and Game and the Water Improvement Commission, each of whom shall be appointed by the head of his respective department, plus the State Geologist. The State Geologist, by virtue of his office, shall be the consultant to said bureau. They shall organize with a chairman, and a secretary who shall keep the records of their doings and such data regarding the mines in the State as may be useful. The jurisdiction of the bureau shall be confined to land owned or held in trust by the State.

1955, c. 409, § 1; 1957, c. 293, § 2; 1959, c. 135, § 1.

**§ 2102. Authority to prospect**

Any person over 18 years of age or any corporation may enter upon state-owned land, including lands held in trust, when the trust is such as to be consistent with mineral development, on receipt of a prospector's permit from the Maine Mining Bureau

for the purpose of prospecting for valuable minerals and metals, except water, sand and gravel. A prospector's permit shall be issued upon payment of a fee of \$2, and shall apply to state-owned lands throughout the State. A prospector's permit shall bear a number and be dated on the date of issue thereof and shall expire at midnight on the 31st day of December then next ensuing. The holder of a permit is entitled to a renewal of his permit upon expiration thereof, upon making application to the Mining Bureau on or before December 31st including payment of the prescribed fee, which renewal shall take effect on January 1st and bear the same number as the expired permit.

If machinery or explosives are to be used for prospecting on state-owned land, the methods to be employed and the amount of explosives to be allowed must first be approved by the Mining Bureau. Prospecting pits, trenches or other openings shall be filled in or otherwise repaired prior to abandonment, so that the public safety may not be jeopardized and the original land value may not be impaired.

1955, c. 409, § 1; 1957, c. 293, § 2.

### § 2103. Location of claim and maintenance of right of possession

Any person or corporation who has secured a prospector's permit may locate one or more claims by defining the boundary lines of the claim or claims. No claim shall be greater than 1,500 feet in length by 600 feet in width. The location or record of any claim shall be construed to include all surface found within the surface boundary lines thereof and all ledges throughout their entire vertical depth, but shall not include any portion of such ledges beyond the end and side lines of such claim, or timber and grass on such claim. As nearly as circumstances will permit, a claim shall be staked out in the following manner; namely

**1. Posts.** By erecting a post at each of the 4 corners of the claim and numbering the posts consecutively, 1 through 4, beginning in the most northeasterly corner and proceeding about the claim in a clockwise direction. Every post shall stand not less than 4 feet above the ground and shall be not less than 4 inches in diameter.

**2. Post #1.** By writing or placing on post #1, the name of the locator, the number of his prospector's permit, the date of staking, and, if the claim is staked on behalf of another person,

the name of the other person and the number of his prospector's permit.

**3. Posts #2, #3 and #4.** By writing or placing on posts #2, #3 and #4 the name of the locator, and if the claim is staked for another person, his name.

**4. Trees or underbrush.** By plainly marking the trees with paint and by trimming the underbrush along the boundary lines of the claim to indicate clearly the outlines of the claim; where there are no trees or underbrush, by piling stones or placing pickets at reasonable intervals along the boundary lines of the claim.

**5. Post or buoy markers.** By establishing post or buoy markers to witness claim corners which fall in a body of water, or by placing posts on dry land and marking thereon exact distances and directions to over-water claim corners.

Any person or corporation who has located and recorded any claim or claims shall, subject to this chapter, have the right of possession of the premises covered by said claim or claims, for the purpose of conducting thereon mining operations and shall own any minerals or metals found therein except water, sand and gravel, and shall have the right to remove the same, and shall have the right to use such water, sand and gravel found on said premises for mining and processing operations. Such rights of possession and such ownership shall be alienable in the same manner as real estate. The claim shall in no way interfere with harvesting timber or leasing campsite lots until actual mining operations are being carried on.

1955, c. 409, § 1; 1957, c. 293, § 2; 1959, c. 135, § 2.

## § 2104. Recording of claim

No person or corporation shall have the right of possession of any claim or claims until such claim or claims shall have been recorded with the Mining Bureau, which record shall contain:

- 1. Name.** The name of the locator;
- 2. Description of minerals.** A general description of the minerals or metals sought;
- 3. Location.** The date of the location and description of the location of said claim, with reference to such natural object or permanent monument as will identify the claim;
- 4. Locations of each corner and markings.** The locations and description of each corner, with the markings thereon;

**5. Plan of claim.** An outline sketch or plan of the claim showing with reasonable accuracy claim corners, witness points and prominent natural objects or permanent structural features, so that the claim may be located on the ground by members of the Mining Bureau or their representatives;

**6. Fees.** The fee for recording, renewing or transferring a claim is \$2;

**7. Expiration date.** A claim shall be in effect until December 31st following the date of recording, and shall be extended for further 12-month periods, not exceeding 4 in number, upon application to the Mining Bureau on or before December 31st and upon payment of a like fee as paid when the claim was recorded, and upon filing an affidavit that during the period about to expire investigatory work has been performed on the claim to the extent of not less than 200 manhours or \$500 worth of work. If the amount of assessment expenditure is far in excess of the minimum requirement, the Mining Bureau may, upon petition of the claimholder, allow all or part of this excess expenditure to be credited to assessment requirements in the following years, as long as the claims are held during the 5-year claim period defined in subsection 9. Where the holder of the claim has 2 or more contiguous claims, the required amount of work for all the claims may be performed on one or more of said contiguous claims, or the required amount of work for one or more of said contiguous claims may be fulfilled by work done on all or any of the contiguous claims. The work done shall be described in the affidavit and shall include only work which tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content. If the date of recording a claim is after the 30th day of September in any year, the bureau shall extend such claim until the 31st day of December of the next ensuing year without requiring such affidavit, upon payment by the locator of the required renewal fee. If the normal exploration plans on overwater claims or a claim group include drilling or geophysical work which requires an ice cover, the Mining Bureau may allow the exploration expenditure to be applied either to a present year or the subsequent year, if requested by the claimholder. Extension will be granted only to those claims which are of record 3 months prior to December 31st of the year in which the request is made.

1963, c. 28, §§ 1, 2.

**8. Forfeiture; appeal.** The failure to comply with any of the requirements for renewing claims under subsection 7 shall



operate as a forfeiture of said claim or claims. Written notice of such forfeiture shall be sent by registered or certified mail to claimant's last known address. Any claimant who is aggrieved may file a written petition for a hearing before the Maine Mining Bureau within 14 days after notice of forfeiture has been given. If the petition for a hearing is filed with the bureau within said 14-day period, the bureau shall within 30 days grant a hearing on the forfeiture and give the claimant 10 days' notice of the time and place thereof. For good cause, the bureau may extend the time for filing such petition.

If any claimant is aggrieved by the decision of the bureau resulting from the hearing, he may within 30 days thereafter appeal to the Superior Court, by filing a complaint therefor. The court shall fix a time and place for hearing and cause notice thereof to be given to the Maine Mining Bureau; and after hearing, the court may affirm or reverse the decision of the bureau and the decision of the court shall be final. During the pendency of all proceedings under this section no person or corporation shall lay claim to the area in dispute.

1961, c. 317, § 81-A.

**9. Time claim may be held.** No claim may be held through authority of the prospector's permit for a period of more than 5 years from the initial date of recording, unless such occurs prior to August 28, 1957, in which case date of recording is construed to mean August 28, 1957. By the end of the 5-year period, any title to the claim will lapse unless the right to the claim has been established under the terms of section 2105. The Mining Bureau may, upon application and for good reason, grant an extension for an additional period not to exceed 5 years. Upon lapse or upon filing of notice of abandonment of a claim, no person or corporation holding the claim immediately prior to date of lapse or abandonment or his representative may relocate on the same area for a period of 60 days.

1963, c. 28, § 3.

**10. Ruling from Mining Bureau.** Any person or corporation with a recorded claim or contiguous claims may make application to the Mining Bureau for a ruling as to whether operations can be carried on consistent with any prior or proposed other use by the State or any agency or instrumentality thereof. Such ruling shall be made within 90 days of the date of such application and when obtained shall be binding and irrevocable.

1955, c. 409, § 1; 1957, c. 293, § 2; 1959, c. 135, § 3; 1961, c. 317, § 81-A; 1963, c. 28, §§ 1-3.

**§ 2105. License to mine; fees**

Any person or corporation with a recorded claim or contiguous claims in accordance with section 2104 may make application to the Mining Bureau for a license to mine, accompanied by a report from a geologist or mining engineer in good standing, describing proposed operations, together with the required license fee, plus an accurate survey of the property boundaries certified by a qualified surveyor. If said applicant has previously received a ruling from the Mining Bureau under section 2104, subsection 10, that the proposed mining operations will not conflict with any prior or proposed state uses, a license to mine in the area specified shall be granted under such terms and conditions as the bureau may require. If no such ruling has previously been given, then no license to mine shall be granted until the bureau is satisfied that no such conflict exists. The license to mine shall expire on December 31st of each year. The annual fee shall be \$25 per claim included in the license to mine. The license to mine shall be renewed on expiration providing the licensee satisfied the bureau that he has complied with the terms and conditions imposed by the Mining Bureau in his license.

The holder of a license to mine shall make royalty and rental payment as follows:

**1. Rental.** Property within the terms of a license to mine is subject to an annual rental of \$5 per acre, payable in advance, except as provided by section 2109.

1963, c. 420, § 1.

**2. Royalty.** Royalty payment of 5% of the adjusted fair market value of the minerals or metals removed from the ground is charged on an annual basis, and shall be applied to defray rental charges up to the maximum rental chargeable in any one year. All royalty payments in excess of the maximum rental charges shall be paid annually.

Each mining license or lease may contain a provision for a minimum royalty applicable to all mining operations on or under state owned lands. Minimum royalties shall be applied against actual royalties set forth herein. A minimum royalty shall be based on each ton of material removed from state owned land. The amount shall be negotiated by the Maine Mining Bureau and the lessee to provide an equitable return to the State for removal of the natural resources and shall not be an unnecessary burden to the development of mining operations in the State.

**A.** The adjusted fair market value shall be:

(1) For such products as have a posted field or market price at the mine head, the posted field or market price at the time of removal from the ground after deductions of those expenses of mining, hoisting, crushing and loading necessary to place the severed products in marketable form and at a marketable place, or

(2) For such severed products as must be processed or beneficiated before they reach a marketable form, the fair value of such severed products in their first marketable form as ore concentrate at point of concentration, after deduction of expenses of mining, hoisting, crushing, loading, transportation, processing, beneficiation including the capital costs of a concentrator and mining equipment, amortized or depreciated over periods of years agreed upon by the Maine Mining Bureau and the lessee, and local administrative costs, or

(3) In case said severed products have no market value at the mine or as a concentrate, the adjusted fair market value shall be the value of such severed products when they first reach a marketable form, after deduction of expenses of mining, hoisting, crushing, loading, transportation, processing, beneficiation and smelting, including the capital costs of a concentrator and mining equipment, amortized or depreciated over periods of years agreed upon by the Maine Mining Bureau and the lessee, and administrative costs and after deduction of the value of any other materials or articles which are combined with, mixed with, absorbed in, or absorbed by said severed products in the process of turning said severed products into their first marketable form. There shall be deducted the expenses of such combining, mixing or absorbing processes.

1959, c. 135, § 4; 1963, c. 420, § 1.

In the event the lessee mines or concentrates ore from land owned other than by the State only that percentage of capital costs of the concentrator, mining equipment and administrative costs directly attributable to the material removed from state owned lands and processed through the concentrator shall be deducted in determining the royalties due the State.

All fee, rental and royalty moneys accruing from operations under prospectors' permits the license to mine or mining lease shall be paid into the Maine Mining Bureau for administration and

control of all prospecting, development or mine activity conducted in areas administered by the bureau. Such fund shall be non-lapsing. The bureau may, with the approval of the Governor and Council, assign such sums as it deems proper to other state agencies for preservation, development or replacement of natural resources.

1955, c. 409, § 1; 1957, c. 293, § 2; 1959, c. 135, § 4; c. 378, § 34; 1963, c. 420, § 1.

### § 2106. Mining lease

Any holder of a license to mine who has complied with the requirements of the bureau and of his license may secure a mining lease of the mining rights covered by his license to mine for such term and under such conditions as the Mining Bureau shall establish. The following additional preliminary requirements must be complied with:

1. **Rental in advance.** That he has deposited with his application the required rental in advance of the first year's tenure;

2. **Tract surveyed.** That the tract to be taken under lease is accurately surveyed;

3. **Previous activities caused no damage.** That the applicant's previous prospecting or mining activities in this State have caused no unreasonable damage to adjacent properties;

4. **Bond or financial responsibility.** That the applicant is bonded against any damage he may cause to the adjacent areas, or upon the substitution and acceptance by the bureau of other adequate proof of financial responsibility to satisfy judgments for damage claims.

The Mining Bureau may require that the applicant for a lease conduct bona fide mining operations under said mining license for not more than one year prior to the granting of a lease.

The mining lease is to be negotiated by the Mining Bureau and shall provide for the payment of the same rental for the property and the payment of the same royalty fees as provided under the terms of the license to mine.

1957, c. 293, § 2.

### § 2107. Safety; rules and regulations

The Mining Bureau shall have the power to make such reasonable rules and regulations as it may deem proper with respect

to safety and in the use and care of explosives in connection with all operations conducted under this chapter.

1957, c. 293, § 2.

### § 2108. Rights of way

Any person who has located a claim and has been issued a license to mine or mining lease in accordance with sections 2105 or 2106 shall have the right of way across any lands owned or controlled by the State to and from said location, and the right to take from public reserved lots all wood and timber necessary to be used in the operation of the mine, by paying to the State or to the owner of the right to cut timber and grass, a fair and just price for the same. The bureau may issue a permit to the holder of a license to mine or mining lease giving him authority to open, construct, put in, maintain and use ditches, tunnels, pipes, conduits, flumes and other works through, over and upon said land for drainage and passage of water, together with the right to construct dams, provided same flows no land of others, in connection with the working of his mine to bring thereto water necessary or convenient for its operation with such conditions and restrictions as the bureau may impose.

1955, c. 409, § 1; 1957, c. 293, § 2.

### § 2109. Mining underwater

The same royalty as provided in section 2105 shall be paid to the State on all mineral or metal commodities produced from mineral deposits situate beneath bodies of water, where the title to the land beneath the water is in the State, but no annual rental charges as specified in section 2105 shall apply to such areas covered by water. Where any mineral is situate under or in the bed of a stream or lake and for the efficient working of the mineral it is necessary to divert the water of such stream, or drain such lake, the Mining Bureau may permit the same to be done, subject to such regulations or alternative provisions for the benefit of any persons or corporations who are entitled to the use of the water of such stream or lake in its natural state, as to the bureau may seem just and expedient.

1955, c. 409, § 1; 1957, c. 293, § 2; 1959, c. 135, §§ 5, 6.

### § 2110. Annual reports

Any person or corporation with a recorded claim or license to mine engaged in exploration, mine development, or mining under the provisions of the chapter shall file an annual report with the Mining Bureau and pay all applicable fees, rentals and royal-

ties in the month of January following the year such operation was carried on setting forth:

1. **Location of operation.** Location of the operation;
2. **Quantity and grade of products.** Quantity and grade of mineral products or metals produced;
3. **Rental.** The amount of rental which has accrued on property;
4. **Royalty.** The amount of royalty which has accrued on material extracted;
5. **Number of employees.** The number of persons ordinarily employed at operation below ground and above ground;
6. **Other information.** Other information as required by the bureau.

1955, c. 409, § 1; 1957, c. 293, § 2.

### § 2111. Forfeiture

In the event that any prospector, claimant, licensee or lessee violates any of the provisions of this chapter or any rule or regulation of the Mining Bureau, the bureau shall notify such prospector, claimant, licensee or lessee, as the case may be, of such alleged violation and of the nature of such alleged violation, by sending such notice by registered or certified mail to him at his last known address. If such violation is not remedied within 30 days after the date of mailing such notice, the permit, claim, license or lease of such violator in existence at the time of such violation shall be liable to forfeiture. For cause, the bureau may extend such further time for compliance as it may determine. No forfeiture shall be valid until a second notice in writing shall have been served upon the person, firm or corporation holding the prospector's permit, claim, mining lease or license to mine, setting forth the alleged violations of law or rules and regulations, or both, 30 days prior to the date set for hearing. The hearing shall be held before the Administrative Hearing Commissioner as designated in Title 5, chapters 301 to 307. If the forfeiture relates to a claim or mining lease, an appropriate entry shall be made on the records of the State Land Agent, after the time for appeal has expired or the appeal finally determined.

The fees of witnesses required to attend any hearing shall be the same as those allowed to witnesses appearing in the Superior Court.

1957, c. 293, § 2; 1959, c. 135, § 7; 1961, c. 317, §§ 82, 83; c. 394, § 20; c. 417, § 119; 1963, c. 412, § 23.