

AN ACT TO AMEND SECTIONS TWENTY-EIGHT, FIFTY-NINE, SIXTY-ONE, SIXTY-TWO, SIXTY-FOUR, SIXTY-EIGHT, SEVENTY-THREE, AND ONE HUNDRED, OF COMMONWEALTH ACT NUMBERED ONE HUNDRED THIRTY...

REPUBLIC ACT NO. 746, June 18, 1952

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subsection (a.) of section twenty-eight of Commonwealth Act Numbered One hundred thirty-seven, known as the Mining Act, is hereby amended to read as follows:

"SEC. 28. No prospecting shall be allowed:

"(a) In a mineral reserve which has been proclaimed closed to mining locations, and in reservations established for other purposes, except by the Government."

SEC. 2. Section fifty-nine of Commonwealth Act Numbered One hundred thirty-seven, known as the Mining Act, is hereby amended to read as follows:

"SEC. 59. Fifty per centum of the fees collected by authority of the preceding section shall accrue to the province and fifty per centum of the same, shall accrue to the municipality in which the mining claim is located. In the case of chartered cities the full amount shall accrue to the city concerned. The city or municipality and province shall provide funds for the necessary personnel, postage, supplies and materials, and equipment needed by the mining recorder in the registration and safe keeping of mining documents."

SEC. 3. Section sixty-one of the same Act is hereby amended to read as follows:

"SEC. 61. Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision: Provided, That the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within thirty days from the date of its receipt. In case any one of the parties should disagree from the decision or order of the Director of Mines or of the Secretary of Agriculture and Natural Resources, the matter may be taken to the court of competent jurisdiction within thirty days from the receipt of such decision or order; otherwise the said decision or order shall be final and binding upon the parties concerned."

SEC. 4. Section sixty-two of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 62. Any qualified person making a valid location of a mining claim or claims, his successors, and assigns, acquires thereby the right of exploration and occupation from the date of the registry of the claims in the office of the mining recorder; and if he applies for lease of said claim or claims and, upon investigation, it shall be found that it is free of claims and conflicts or that his application appears to be prima facie well founded, subject to the rules and regulations that the Secretary of Agriculture and Natural Resources may prescribe, he shall be entitled, before the lease is granted as provided in this Act, to a temporary permit, to be issued by the Secretary of Agriculture and Natural Resources within forty-five days from the date application for such permit, accompanied by the necessary technical description and survey plan of the mining claim or

claims, is filed, to mine, extract and dispose of minerals from said claim or claims for commercial purposes, subject, however, to the payment of royalties provided in the National Internal Revenue Code, as amended, for claims covered by lease: Provided, however, That the holders of mining claims located under the Act of Congress of July one, nineteen hundred and two, as amended, who may apply for a lease or leases thereon under the provisions of section sixty-eight of this Act, as amended, subject to the rules and regulations that the Secretary of Agriculture and Natural Resources may prescribe, may extract minerals therefrom for commercial purposes without such temporary permit until such time as the leases applied for are granted subject, however, to the payment of royalties provided for in the National Internal Revenue Code, as amended, for claims covered by leases and to the condition that the mining claim or claims to be developed or exploited shall first be properly surveyed: Provided, finally, That the Secretary of Agriculture and Natural Resources may at any time cancel for violation of laws and regulations and after due hearings the temporary permit granted under the provision of this Act, and in the case of unpatented mining claims located under the Act of Congress of July one, nineteen hundred and two, as amended stop the extraction of minerals therefrom for commercial purposes, without any responsibility on the part of the Government as to expenditures for development works or exploitation purposes that might have been incurred by the applicants, pending the determination of their applications for lease."

SEC. 5. Section sixty-four of the same Act is hereby amended to read as follows:

"SEC. 64. The Director of Mines may designate competent mineral or deputy mineral land surveyors to survey mining claims for any necessary purpose under the provisions of this Act. He is also hereby empowered to fix the bonds of duly qualified deputy mineral land surveyors and to issue the necessary regulations governing the execution and verification of surveys of mineral lands in the Philippines. All applications for official surveys of mining claims shall be filed with the Director of Mines before or upon the filing of the lease application, and the necessary survey of the mining claim or claims shall be made within a reasonable time thereafter, and the expenses of such surveys shall be paid by the applicants. They shall be at liberty to employ any such deputy mineral surveyor to make the survey at the most reasonable rate."

SEC. 6. Section sixty-eight of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 68. Application for a lease on a mining claim shall be filed within four years from the date of the recording of the claim in the office of the mining recorder. Failure to file such application within the period above-mentioned shall be deemed an abandonment of the mining claim, and the land embraced within such claim shall thereupon be open to relocation in the same manner as if no location of the same had ever been made: Provided, That the original locator, his heirs, or his assigns, who has or have thus failed to file a lease application on the claim shall not be entitled to relocate, directly or indirectly, the land embraced within such claim, or any part thereof."

SEC. 7. Section seventy-three of the same Act is hereby amended to read as follows:

"SEC. 73. At any time during the period of application, any adverse claim may be filed under oath with the Director of Mines, and shall state in full detail the nature, boundaries, and extent of the adverse claim, and shall be accompanied by all plans, documents, and agreements upon which such adverse claim is based: Provided, however, That no adverse claim from any person association, partnership or corporation, whose protest filed under section sixty-one of this Act has already been finally decided by the Director of Mines and/or the Secretary of Agriculture and Natural Resources, shall be entertained. Upon the filing of any adverse claim all proceedings except the publication of notice of application for lease and the making and filing of the affidavit in connection therewith, as herein prescribed, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction to determine the controversy and to prosecute the same with reasonable diligence to final judgment, and a failure to do so shall be considered as a waiver of his adverse claim. After such judgment shall

have been rendered, the party whose right to a lease on the mining claim in controversy, or any portion thereof, shall have been established thereby, may, without giving further notice, file a certified copy of the judgment with the Director of Mines, and the description required in such cases, together with the proper fees, whereupon a lease may forthwith be granted thereon on such mining claim or on such portion thereof as the applicant may be entitled to under the decision of the court. If the decision of the court is that several parties are entitled to leases upon separate and different portions of the mining claim, the subject matter of the application, and such parties have theretofore applied therefor, leases may forthwith be issued to the said several parties according to their respective rights as determined by the decision. If in any action brought pursuant to this section a right to a lease upon any of the claim in controversy shall not be established by any of the parties, the court shall so find and judgment shall be entered accordingly. In such case the clerk of the court rendering judgment shall file a certified copy of the judgment with the Director of Mines, whereupon the proceedings under the lease application shall be dismissed and the application denied."

SEC. 8. Section one hundred of the same Act is hereby amended to read as follows:

"SEC. 100. Any person who, without a mines temporary permit or mining lease shall extract minerals and dispose of the same for commercial purposes, belonging to the Government or from a mining claim or claims leased, held or owned by other persons without the permission of the lawful lessee, holder or owner thereof, or shall steal ores or the products thereof from mines or mills, shall, upon conviction, be imprisoned from six months to six years or pay a fine of from one thousand pesos to twelve thousand pesos, or both, in the discretion of the court, besides paying compensation for the damage caused thereby: Provided, That in the case of association, partnership, or corporation, the president or manager thereof shall be responsible for the acts committed by such association, partnership or corporation."

SEC. 9. This Act shall take effect upon its approval.

Approved, June 18, 1952.

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