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AB-1734 Mining claims: recording. (2015-2016)

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Assembly Bill No. 1734

CHAPTER 95

An act to amend Section 3913 of the Public Resources Code, relating to mining.

[Approved by Governor July 25, 2016. Filed with Secretary of State July 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1734, Obernolte. Mining claims: recording.

Existing law requires, whenever labor is performed, improvements are made, or a maintenance fee is paid on a mining claim, that a specified affidavit be recorded in the county in which the mining claim is situated. Existing law requires that affidavit to include, among other things, the names, current mailing addresses, and current residential addresses of the person who makes the proof and the owner of the claim.

Existing law requires the recorder of each county to accept for recordation any instrument, paper, or notice that is authorized or required by law to be recorded. Existing law requires those documents, except as otherwise provided by another law or regulation, to comply with specified standards respecting margins, quality of paper, print size and color, and other related matters.

This bill would no longer require the recorded mining claim affidavit to include the current residential addresses of the person who makes the proof and the owner of the claim.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3913 of the Public Resources Code is amended to read:

3913. (a) Whenever labor is performed, improvements are made, or a maintenance fee is paid as required by law upon any mining claim, the person on whose behalf the labor was performed, improvements made, or a maintenance fee was paid, or someone in his or her behalf, within 30 days after the time required by law for performing the labor, making the improvements, or paying the maintenance fee, shall make and have recorded by the county recorder in the county in which the mining claim is situated an affidavit setting forth all of the following:

- (1) The name of the claim and the serial number, if any, assigned to the claim by the Bureau of Land Management in the United States Department of Interior.
- (2) A reference by book and page or document number to the public record of the notice of location of the claim and, if amended, of the last recorded amendment thereof.

(3) The section or sections, township, range, and meridian of the United States survey within which all or any part of the claim is located.

(4) A description of the labor performed or improvements made upon or for the benefit of the claim for which the proof is made, the value of each item, and the dates on which, or the period of time within which, the labor was performed or the improvement was made, or a statement that a maintenance fee in the amount prescribed by the laws of the United States has been or will be paid, the amount of the maintenance fee, and the date of payment or anticipated payment.

(5) The name and current mailing address of the person who makes the proof and of the owner of the claim, as known to the affiant.

(6) A statement that the claim is held and claimed by the owner, or the person making the proof if he or she is entitled to possession thereof, for the valuable mineral contained therein.

(7) The name and address of the person who performed or made the work and improvements described in the affidavit as known to the affiant, if applicable.

(8) A statement that all monuments required by law to have been erected upon the claim and all notices required by law to have been posted on the claim or copies thereof were in place at a date within the assessment year for which the affidavit is made and a statement of the date.

(9) A statement that, at that date, each corner monument bore or contained a marking sufficient to appropriately designate the corner of the mining claim to which it pertains and the name of the claim.

(b) An affidavit recorded as required by subdivision (a), or a copy thereof duly certified by the county recorder, shall be prima facie evidence of the performance of the labor, the making of the improvements, or the payment of the maintenance fee as stated in the affidavit.

(c) (1) The neglect or failure of the owner of any mining claim to record, or cause to be recorded, within the time allowed by this section an affidavit containing the statements required by subdivision (a) creates a prima facie presumption of the act and intent of the owner to abandon the claim at the end of the assessment year within which the labor should have been performed, the improvements should have been made, or the maintenance fee should have been paid under the laws of the United States, and imposes the burden of proof upon the owner of the claim to show that the labor has been performed, that the improvements have been made, or that the maintenance fee has been paid in any contest, suit, or proceeding touching the title to the claim.

(2) If the affidavit is executed and recorded by anyone other than an owner within the 30-day period, and the owner apprehends that there are deficiencies in the recorded affidavit, he or she may supplement the recorded affidavit by further affidavit to comply with the section and may record the supplemental affidavit within 30 days following the last day of the 30-day period after the time required by law for performance of the work, making of improvements, or payment of the maintenance fee, and thereby obtain the prima facie evidence of the performance of labor, the making of improvements, or the payment of the maintenance fee, and avoid the prima facie presumption of abandonment and the burden of proving the performance of labor, the making of improvements, or the payment of the maintenance fee required by law.

(d) Any person who willfully makes a false statement with respect to any mining claim on the affidavit required by subdivision (a), or on the supplementary affidavit permitted by subdivision (c), is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.