



**SUBTITLE B OF TITLE X OF THE OMNIBUS BUDGET
RECONCILIATION ACT OF 1993**



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July 1, 2010

SUBTITLE B OF TITLE X OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993¹

[As Amended Through P.L. 111-8, Enacted March 11, 2009]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Omnibus Budget Reconciliation Act of 1993”.

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TITLE X—NATURAL RESOURCE PROVISIONS

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Subtitle B—Hardrock Mining Claim Maintenance Fee

SEC. 10101. FEE.

(a) CLAIM MAINTENANCE FEE.—The holder of each unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before, on or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before September 1 of each year, to the extent provided in advance in Appropriations Acts,² a claim maintenance fee of \$100

¹ Subtitle B of title X of the “Omnibus Budget Reconciliation Act of 1993 (107 Stat. 405) consists of the Act of August 3, 1993, and subsequent amendments thereto (30 U.S.C. 28f and following).

² Title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (division F of Public Law 110-161; 121 Stat. 2101) provides for amendments to “section 28f(a) [of title 30, United States Code] by striking the phrase ‘for years 2004 through 2008’...section 28g, by striking the phrase ‘and before September 30, 2008.’” Such amendments probably should have been made to sections 10101(a) and 10102 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66; 107 Stat. 405, 406).

The fourth undesignated subsection under the headings ADMINISTRATIVE PROVISIONS, BUREAU OF LAND MANAGEMENT of title I of division E of Public Law 111-8 (123 Stat. 704) provides as follows:

The provisions of law codified at sections 28f(a) and 28g of title 30, United States Code, are amended to remove the modifications made under the heading “administrative provisions”, under the heading “Bureau of Land Management” in title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (division F of Public Law 110-161; 121 Stat. 2101).

The reinstatement of language struck by Public Law 110-161 by the language provided in Public Law 111-8 is shown here to reflect the probable intent of Congress.

Under the heading “ADMINISTRATIVE PROVISIONS” in title I—Department of the Interior--Bureau of Land Management of division A of Public Law 111-88, provides for an amendment as follows: “...*Provided further*, That section 28f(a) of title 30, United States Code, is amended by striking the phrase ‘for years 2004 through 2008,’ and replacing it with ‘, to the extent provided

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per claim or site³ Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976¹ (43 U.S.C. 1744 (a) and (c)).

(b) **TIME OF PAYMENT.**—The claim maintenance fee payable pursuant to subsection (a) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under section 10102 shall be payable not later than 90 days after the date of location.

(c) **OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.**—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(d) **WAIVER.**—(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872¹ (30 U.S.C. 28–28e) to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term “related party” means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

(3)¹ If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: (A) cure such

in advance in Appropriations Acts.” The amendment was executed to section 10101(a) of the Omnibus Budget Reconciliation Act of 1993 to reflect the probable intent of Congress.

³ So in law. Probably should be followed by a period.

¹ The Mining Law of 1872 (30 U.S.C. 28–28e), referred to in subsections (a) and (d)(1)(B), probably means the Act of May 10, 1872, chapter 152, 17 Stat. 91, as amended. That Act was incorporated into the Revised States of the United States as R.S. sections 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of title 30, United States Code.

¹ See footnote 2 to subsection (a).

¹ Margin so in law.

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defect or defects, or (B) pay the \$100 claim maintenance fee due for such period.

(30 U.S.C. 28f)

SEC. 10102. LOCATION FEE.

Notwithstanding any other provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this subtitle, to the extent provided in advance in Appropriations Acts,¹ pursuant to the Mining Laws of the United States, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the claim maintenance fee required by section 10101, of \$25.00 per claim.

(30 U.S.C. 28g)

SEC. 10103. CO-OWNERSHIP.

The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28) shall remain in effect, except that in applying such provisions, the annual claim maintenance fee required under this Act shall, where applicable, replace applicable assessment requirements and expenditures.

(30 U.S.C. 28h)

SEC. 10104. FAILURE TO PAY.

Failure to pay the claim maintenance fee or the location fee as required by this subtitle² shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(30 U.S.C. 28i)

SEC. 10105. OTHER REQUIREMENTS.

(a) **FEDERAL LAND POLICY AND MANAGEMENT ACT REQUIREMENTS.**—Nothing in this subtitle shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), and such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

(b) **REVISED STATUTES SECTION 2324.**—The third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after “On each claim located after the tenth day of May, eighteen hundred and seventy-two,” the following: “that is granted

¹ See footnote 2 for section 10101(a).

Under the heading “ADMINISTRATIVE PROVISIONS” in title I—Department of the Interior—Bureau of Land Management of division A of Public Law 111–88, provides for an amendment as follows: “...*Provided further*,...Section 28g of title 30, United States Code, is amended by striking the phrase ‘and before September 30, 2008,’ and replacing it with ‘, to the extent provided in advance in Appropriations Acts.’”. The amendment was executed to section 10102 of the Omnibus Budget Reconciliation Act of 1993 to reflect the probable intent of Congress.

² Under the heading “ADMINISTRATIVE PROVISIONS” in title I—Department of the Interior—Bureau of Land Management of division A of Public Law 111–88, provides for an amendment as follows: “...*Provided further*,...Section 28i of title 30, United States Code, is amended by striking ‘28k’ and replacing it with ‘28l’”. The amendment probably should have been made to section 10104 of the Omnibus Budget Reconciliation Act of 1993 and could not be executed because the matter proposed to be struck does not appear.

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a waiver under section 10101 of the Omnibus Budget Reconciliation Act of 1993.”

(c) FEE ADJUSTMENTS.—(1) The Secretary of the Interior shall adjust the fees required by this subtitle to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of the enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.

(3) A fee adjustment under this subsection shall begin to apply the first assessment year which begins after adjustment is made.

(30 U.S.C. 28j)

SEC. 10106. REGULATIONS.

The Secretary of the Interior shall promulgate rules and regulations to carry out the terms and conditions of this subtitle as soon as practicable after the date of the enactment of this subtitle.

(30 U.S.C. 28k)