

**ASSEMBLY BILL**

**No. 1734**

---

---

**Introduced by Assembly Member Obernolte  
(Coauthor: Assembly Member Mathis)**

February 1, 2016

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1734, as introduced, 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.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

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

3 3913. (a) Whenever labor is performed, improvements are  
4 made, or a maintenance fee is paid as required by law upon any  
5 mining claim, the person on whose behalf the labor was performed,  
6 improvements made, or a maintenance fee was paid, or someone  
7 in his or her behalf, ~~shall~~, within 30 days after the time required  
8 by law for performing the labor, making the improvements, or  
9 paying the maintenance fee, *shall* make and have recorded by the  
10 county ~~recorder~~, *recorder* in the county in which the mining claim  
11 is ~~situated~~, *situated* an affidavit setting forth all of the following:

12 (1) The name of the claim and the serial number, if any, assigned  
13 to the claim by the Bureau of Land Management in the United  
14 States Department of Interior.

15 (2) A reference by book and page or document number to the  
16 public record of the notice of location of the claim and, if amended,  
17 of the last recorded amendment thereof.

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

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

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

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

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

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

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

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

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

28 (2) *If* the affidavit is executed and recorded by anyone other  
29 than an owner within the 30-day period, and the owner apprehends  
30 that there are deficiencies in the recorded affidavit, he or she may  
31 supplement the recorded affidavit by further affidavit to comply  
32 with the section and may record the supplemental affidavit within  
33 30 days following the last day of the 30-day period after the time  
34 required by law for performance of the work, making of  
35 improvements, or payment of the maintenance fee, and thereby  
36 obtain the prima facie evidence of the performance of labor, the  
37 making of improvements, or the payment of the maintenance fee,  
38 and avoid the prima facie presumption of abandonment and the  
39 burden of proving the performance of labor, the making of

1 improvements, or the payment of the maintenance fee required by  
2 law.

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

O