

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Abandoned Mined Lands and Water Reclamation Act is amended by changing Sections 2.02, 2.03, 2.04, 2.05, 2.09, 2.11, and 3.04 as follows:

(20 ILCS 1920/2.02) (from Ch. 96 1/2, par. 8002.02)

Sec. 2.02. Manner of Reclamation.

(a) The Department shall determine the manner of reclamation of designated abandoned lands, and shall make recommendations as to the use of those lands after reclamation.

(b) The Department may by rule provide for the filling of voids and sealing of tunnels, shafts and entryways, and reclamation of the surface impacts of underground or surface mines.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 1920/2.03) (from Ch. 96 1/2, par. 8002.03)

Sec. 2.03. Priorities.

(a) Expenditures of moneys on abandoned lands for the purposes of this Article shall reflect the following priorities in the order stated:

(1) the protection of public health, safety, ~~general~~

~~welfare,~~ and property from extreme danger of adverse effects of coal mining practices or the restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices and are adjacent to a site that has been or will be remediated under this subparagraph (1);

(2) the protection of public health, and safety, ~~and general welfare~~ from adverse effects of coal mining practices or the restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices and are adjacent to a site that has been or will be remediated under this subparagraph (2);

(3) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;

(4) (blank); ~~research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;~~

(5) (blank); ~~the protection, repair, replacement, construction, or enhancement of public facilities adversely affected by coal mining practices;~~

(6) (blank). ~~the development of publicly owned land~~

~~adversely affected by coal mining practices including land acquired as provided in this Act for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.~~

(b) The Department may by rule establish additional criteria, including but not limited to:

(1) the financial ability of the landowners to abate pollution;

(2) the potential economic value of the land under private ownership subsequent to reclamation;

(3) the potential value of the land in the public domain for conservation, open space and recreation purposes subsequent to reclamation;

(4) the proximity of abandoned lands to municipalities, residential areas, and public facilities such as water supplies, parks and recreational areas.

Such additional criteria shall be applied in a manner consistent with the priorities in subsection (a) of this Section.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 1920/2.04) (from Ch. 96 1/2, par. 8002.04)

Sec. 2.04. Reclamation.

(a) The Department or such agency or department of State government as the Department may designate pursuant to subsection (d) of Section 3.05 may enter and reclaim abandoned

lands under this Section if the Department finds that:

(1) land or water resources have been adversely affected by past coal mining practices; and

(2) the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or readily available; or the owners will not give permission for the United States, the States, political subdivisions, their agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(b) After (1) the findings required by subsection (a) of this Section have been made, and (2) giving notice by mail return receipt requested to the owners if known or if not known by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality in which the land lies, the Department or such agency or department of State government as the Department may designate pursuant to subsection (d) of Section 3.05 shall have the right to enter on the property adversely affected by past mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate,

control, or prevent the adverse effects.

(c) The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damage by virtue of such entry. This provision is not intended to create new rights of action or eliminate existing immunities.

(d) Entry under this Section shall be construed as an exercise of the police power for the protection of public health and, ~~safety, and general welfare~~ and shall not be construed as an act of condemnation of property nor trespass thereon.

(Source: P.A. 91-357, eff. 7-29-99.)

(20 ILCS 1920/2.05) (from Ch. 96 1/2, par. 8002.05)

Sec. 2.05. Studies and Exploration.

(a) The Department or such agency or department of State government as the Department may designate pursuant to subsection (d) of Section 3.05 shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects.

(b) Entry under this Section shall be construed as an

exercise of the police power for the protection of public health and, ~~safety, and general welfare~~ and shall not be construed as an Act of condemnation of property nor trespass thereon.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 1920/2.09) (from Ch. 96 1/2, par. 8002.09)

Sec. 2.09. Liens.

(a) Within 6 months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land under this Article, the Department shall itemize the moneys so expended and may file a statement thereof in the office of the county in which the land lies which has the responsibility under local law for the recording of judgments against land, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past mining practices if the moneys so expended shall result in a significant increase in property value. Such statement shall constitute a lien upon the land. The lien shall not exceed the amount determined by appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b) No lien shall be filed under this Section against the

property of any person, ~~who owned the surface prior to May 2, 1977, and~~ who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.

(c) The landowner may proceed as provided by law to petition within 60 days of the filing of the lien, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement provided in this Section. Any party aggrieved by the decision may seek appropriate judicial relief at the Circuit Court.

(d) The lien provided in this Section shall be entered in the county office in which the land lies and which has responsibility under local law for the recording of judgments against land. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land or such lesser priority as may be permitted or required by the Federal Act or regulations thereunder. The statement shall state the priority claimed for such lien.

To the extent that it is consistent with the Federal Surface Mining Control and Reclamation Act of 1977, Public Law

~~P.L.~~ 95-87, as amended, the Department shall provide by rule for the accumulation of interest on the amount secured by the lien.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 1920/2.11) (from Ch. 96 1/2, par. 8002.11)

Sec. 2.11. Non-coal reclamation.

(a) (Blank). ~~It is hereby declared that open and abandoned tunnels, shafts, and entryways and abandoned and deteriorating equipment, structures, and facilities resulting from any previous non-coal mining operations constitute a hazard to the public health and safety. The Department is authorized and empowered to fill or seal such abandoned tunnels, shafts, and entryways and remove equipment, structures, and facilities which it determines could endanger life and property and constitute a hazard to the public health and safety.~~

(b) The Department may make expenditures and carry out the purposes of this Section for lands mined for substances other than coal; provided, however, that those non-coal reclamation projects be accorded a high priority under subsection (a) of paragraph (1) of Section 2.03 and that annual expenditures for non-coal reclamation do not exceed 2% of the Department's annual budget for mine land reclamation. Except for those non-coal reclamation projects relating to the protection of the public health or safety which shall be accorded a high priority, non-coal reclamation expenditures shall be made only

after all reclamation with respect to abandoned coal lands or coal development impacts has been accomplished.

(c) In those instances where coal mine waste piles are being reworked for conservation purposes, the Department may make additional incremental expenditures to dispose of the wastes from such operations by filling voids and sealing tunnels if the disposal of these wastes is in accordance with the purposes of this Section.

(d) The Department shall acquire, by purchase, exchange, gifts, condemnation or otherwise, the fee simple title or any lesser interest in and to such land rights or other property as the Department considers necessary to carry out the provisions of this Section. Transfers and dispositions of such land shall be made in the same manner as prescribed by Section 2.07 of this Act.

(e) Consistent with this Section, the Department may enter and reclaim abandoned non-coal mined lands in the same manner as prescribed in Section 2.04 of this Act.

(Source: P.A. 97-991, eff. 8-17-12.)

(20 ILCS 1920/3.04) (from Ch. 96 1/2, par. 8003.04)

Sec. 3.04. Water Pollution Control.

(a) The Department may set aside up to 30% of each year's allocation of available abandoned mine reclamation funds distributed annually from the State share and historic coal share funds into a separate fund for the abatement of the

causes and treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices. These funds shall be deposited into a special State account and will be used and accounted for in accordance with all applicable State and federal regulations used solely to achieve the priorities stated in Title IV of the federal Surface Mining Control and Reclamation Act of 1977. In this Section, "qualified hydrologic unit" means a hydrologic unit in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources and that contains land and water that are eligible for protection under Section 1.03 of this Act and includes any of the priorities described in Section 2.03 of this Act.

(b) The Department or such agency or department of State government as the Department may designate pursuant to subsection (d) of Section 3.05 may construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water. No control or treatment under this Section shall in any way be less than that required under the Environmental Protection Act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plan.

(Source: P.A. 89-445, eff. 2-7-96.)