HOUSE BILL 36

M3 (9lr0636)

ENROLLED BILL

— $Environment\ and\ Transportation/Education,\ Health,\ and\ Environmental\ Affairs$ — Introduced by $\mathbf{Delegate\ Wivell}$

Introduced by Delegate Wivell				
Read and	Examined	by Proofreaders:		
			Pro	ofreader.
			Pro	ofreader.
Sealed with the Great Seal and	presented	to the Governor,	for his appro	val this
day of	at		o'clock,	M.
				Speaker.
	CHAPTER			
AN ACT concerning				
Surface Mining – Zone of Dewa	atering Int <u>Remed</u>		upply Replace	ment
FOR the purpose of requiring a certain safety measures under mining permittee to permaner zone of dewatering influence circumstances; authorizing reimbursement for certain circumstances; providing for the a contested case hearing; cross—reference; and generally surface mine.	er certain cently replace within a certain water suthe construction and water at the construction aking a y relating to	circumstances; require a certain water a certain period in surface mining apply replacement ection of certain proving stylistic change; to the zone of dewater	airing a certain supply within a of time under g permittee costs under visions of law recorrecting an	n surface a certain certain to seek certain elating to obsolete
BY repealing and reenacting, withou	ut amendm	ents,		

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



	2	HOUSE BILL 36			
1 2 3 4	Secti Anno	ele – Environment on 15–801(a), (e), (f), (g), (n), (p), and (u) and 15–812 otated Code of Maryland 4 Replacement Volume and 2018 Supplement)			
5 6 7 8 9	BY repealing and reenacting, with amendments, Article – Environment Section 15–813 Annotated Code of Maryland (2014 Replacement Volume and 2018 Supplement)				
10	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:				
2		Article – Environment			
13	15–801.				
4	(a)	In this subtitle the following words have the meanings indicated.			
5	(e)	"Department" means the Department of the Environment.			
6	(f)	"Land" means the surface of the land upon which surface mining is conducted.			
17	(g)	"Landowner" means a person who possesses legal title to the land.			
18 19 20	(n) mining and subtitle.	"Permittee" means a person who holds a valid permit to conduct surface I reclamation operations approved by the Department under § 15–810 of this			
21 22	(p) method.	"Pit" means the place any minerals are being mined by the surface mining			
23	(u)	"Surface mining" means all of the following:			
24 25	extraction of	(1) The breaking of the surface soil in order to facilitate or accomplish the or removal of minerals;			
26 27	extraction ((2) Any activity or process constituting all or part of a process for the or removal of minerals from their original location; or			

- 28 (3) The extraction of sand, gravel, rock, stone, earth, or fill from borrow pits 29 for highway construction purposes or other public facilities.
- 30 15-812.

- 1 (a) The General Assembly finds that in certain regions of the State dewatering of surface mines located in karst terrain may significantly interfere with water supply wells and may cause in some instances sudden subsidence of land, known as sinkholes.

 4 Dewatering in karst terrain may result in property damage to landowners in a definable zone of dewatering influence around a surface mine.
 - (b) It is the intent of the General Assembly to protect affected property owners in Baltimore, Carroll, Frederick, and Washington counties where karst terrain is found by directing the Department to establish zones of dewatering influence around surface mines in karst terrain and to administer a program requiring permittees to mitigate or compensate affected property owners in these counties.
- 11 15-813.

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- 12 (a) (1) In this section the following words have the meanings indicated.
- 13 (2) "Dewater" or "dewatering" means to pump water out of a pit.
- 14 (3) "Karst terrain" means an irregular topography that is:
- 15 (i) Caused by a solution of limestone and other carbonate rock; and
- 16 (ii) Characterized by closed depressions, sinkholes, caverns, solution 17 cavities, and underground channels that, partially or completely, may capture surface 18 streams.
- 19 (4) "Lineaments" means the surface manifestation of cracks, fissures, 20 fractures, and zones of weakness that, generally, are observable on aerial photographs as 21 straight or nearly straight lines.
 - (b) (1) If a permittee is issued a water appropriation permit under § 5–502 of this article to dewater a pit located in karst terrain in Baltimore, Carroll, Frederick, and Washington counties, the Department shall establish, as a condition of the permittee's surface mining permit under § 15–810 of this subtitle, a zone of dewatering influence around the surface mine.
- 27 (2) The areal extent of the zone of dewatering influence shall be based, as 28 appropriate, on local topography, watersheds, aquifer limits, and other hydrogeologic 29 factors, including the occurrence of natural fractures, cracks, crevices, lineaments, igneous 30 dikes, changes in rock type, and variations in the water-bearing characteristics of 31 formations.
- 32 (c) **(1)** Within the zone of dewatering influence established under subsection 33 (b)(1) of this section, the permittee shall:

[(1)**]** (I) Replace, at no expense to the owner of real property that is affected by the surface mine dewatering, a water supply that fails as a result of declining ground water levels; and

4 (II) ON DISCOVERY OF A SUDDEN SUBSIDENCE OF THE SURFACE 5 OF THE LAND, IMMEDIATELY IMPLEMENT APPROPRIATE SAFETY MEASURES TO 6 PROTECT PUBLIC HEALTH AND SAFETY; AND

- [(2)] (III) [Upon] ON a determination by the Department of proximate cause after the permittee has received proper notice and an opportunity to respond and provide information, pay monetary compensation to the affected property owner or repair any property damage caused as a result of the sudden subsidence of the surface of the land.
- (2) A PERMITTEE SHALL PERMANENTLY REPLACE A WATER SUPPLY UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION WITHIN 45 DAYS OF THE DATE ON WHICH THE PERMITTEE KNEW OF THE WATER SUPPLY FAILURE.
- (d) (1) An individual domestic water supply within a zone of dewatering influence that is no longer capable of yielding water because of declining water levels shall be considered to be replaced adequately by a permittee if the permittee provides for the affected property owner a new or retrofitted well that is capable of meeting the minimum yield requirements established in regulations adopted by the Department of the Environment during the period of pit dewatering.
- (2) A municipal, industrial, commercial, institutional, or farming water supply within a zone of dewatering influence that is no longer capable of yielding water because of declining water levels shall be considered to be replaced adequately by a permittee if the permittee provides for the affected property owner a new or retrofitted well or other alternative water supply that is capable of yielding water equal to the volume used or needed by the property owner before the disruption of water supply.
- (e) (1) Real or personal property within the zone of dewatering influence in karst terrain in Baltimore, Carroll, Frederick, and Washington counties found by the Department to have been damaged as a result of sudden land surface subsidence shall be considered to be repaired adequately by a permittee if the permittee returns the damaged property to its condition before the subsidence of the surface of the land.
- (2) If the damaged real or personal property is not capable of being restored to its pre—subsidence condition, the permittee shall compensate the owner of the real or personal property monetarily by the difference of the fair market value of the property as the property would exist but for the sudden land subsidence, and the fair market value of the property as a result of the damage.

- 1 (3) Notwithstanding the other provisions of this subsection, the permittee 2 and the property owner may agree on monetary compensation or other mitigation in lieu of 3 restoration.
- 4 (f) (1) The Department may not require a permittee to replace water supplies, 5 as provided in this section, if the permittee demonstrates to the Department by clear and 6 convincing evidence that the proximate cause of the loss of water supply is not the result of 7 pit dewatering.
- 8 (2) THE PERMITTEE MAY SEEK REIMBURSEMENT FOR THE COST OF A
 9 WATER SUPPLY REPLACEMENT FROM THE OWNER OF REAL PROPERTY THAT IS
 10 AFFECTED BY THE SURFACE MINE DEWATERING IF AFTER THE PERMITTEE
 11 REPLACES THE WATER SUPPLY IT IS DETERMINED THAT THE PERMITTEE'S
 12 DEWATERING ACTIVITY IS NOT THE PROXIMATE CAUSE OF THE WATER SUPPLY
 13 FAILURE.
- 14 (g) **(1)** The Department shall provide opportunity for a contested case hearing 15 in accordance with [the provisions of § 5–204 of this article] **TITLE 10, SUBTITLE 2 OF** 16 **THE STATE GOVERNMENT ARTICLE**.
- 17 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE STAY THE
 18 REQUIREMENT TO PERMANENTLY REPLACE A WATER SUPPLY OR IMPLEMENT
 19 APPROPRIATE SAFETY MEASURES IN ACCORDANCE WITH SUBSECTION (C) (C) (C) OF
 20 THIS SECTION.
- 21 (h) The Department shall adopt regulations to establish an administrative 22 process to expedite the resolution of water supply loss or property damage claims arising 23 under this section.
- 24 (i) Compensation, restoration, or mitigation provided by this section does not 25 apply to:
- 26 (1) Improvements that are made to real property within an established 27 zone of dewatering influence following a final decision by the Department to issue a surface 28 mining permit; or
- 29 (2) Improvements that are made to real property following the 30 establishment of a zone of dewatering influence as a condition of an existing surface mine 31 permit.
- 32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 33 October 1, 2019.