

SENATE BILL 174

M3

71r1745

By: **Senator Edwards**

Introduced and read first time: January 26, 2007

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2007

CHAPTER _____

1 AN ACT concerning

2 **Environment - Mining - Security**

3 FOR the purpose of expanding the pool of financial institutions from which the
4 Department of the Environment may accept certain financial instruments
5 instead of a performance bond for strip, deep, or surface mining operations; and
6 generally relating to financial security for strip, deep, or surface mining
7 operations.

8 BY repealing and reenacting, without amendments,
9 Article - Environment
10 Section 15-507(b)(1) and (d), 15-612(a), (c), and (d), and 15-823(a)
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2006 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Environment
15 Section 15-507(c), 15-612(e)(1), and 15-823(d)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Environment**

4 15–507.

5 (b) (1) After receiving notification from the Department that the permit
6 application has been approved, but before the permit is issued, the operator shall file
7 with the Department a bond for performance payable to the State and conditioned on
8 the operator faithfully performing every requirement of this subtitle, the rules and
9 regulations issued under this subtitle, and permit conditions.

10 (c) All bonds required by this section shall be on a form provided by the
11 Department, shall be payable to the State of Maryland, and shall be executed by the
12 operator and a corporate surety licensed to do business in the State. Instead of a
13 corporate surety, any of the following are acceptable:

14 (1) A deposit of cash or negotiable bonds of the United States
15 government. The cash deposit or market value of the securities shall be at least equal
16 to the required sum of the bond. On receipt of a deposit of cash or securities, the
17 Department immediately shall place it with the State Treasurer, who shall receive and
18 hold the deposit in trust, in the name of the State for the purposes for which it is
19 made. The State Treasurer is responsible for the custody and safekeeping of the
20 deposit. The operator, making the deposit, may demand and receive from the State
21 Treasurer all or any portion of any deposited securities, if the operator replaces them
22 with other negotiable securities of the class specified as having a market value at least
23 equal to the sum of the bond;

24 (2) A certificate of deposit in an amount equivalent to the required
25 bond:

26 (i) Issued by:

27 1. A financial institution [in the State], as defined in §
28 1–101 of the Financial Institutions Article, ~~THAT IS AUTHORIZED TO DO BUSINESS~~
29 ~~IN THE STATE~~ PHYSICALLY LOCATED IN THE STATE OR THAT OTHERWISE
30 SUBJECTS ITSELF TO THE JURISDICTION OF THE U.S. DISTRICT COURT FOR
31 THE DISTRICT OF MARYLAND; or

32 2. A federal credit union, as defined in 12 U.S.C. § 1752,
33 ~~THAT IS AUTHORIZED TO DO BUSINESS in the State~~ PHYSICALLY LOCATED IN THE

1 **STATE OR THAT OTHERWISE SUBJECTS ITSELF TO THE JURISDICTION OF THE**
2 **U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND**; and

3 (ii) Accompanied by written agreement of the financial
4 institution or federal credit union to pay on demand to the State in the event of
5 forfeiture; or

6 (3) An irrevocable letter of credit if it is equivalent to the required
7 bond, issued by a bank ~~THAT IS AUTHORIZED TO DO BUSINESS in the State~~
8 **PHYSICALLY LOCATED IN THE STATE OR THAT OTHERWISE SUBJECTS ITSELF TO**
9 **THE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF**
10 **MARYLAND**, and expressly states that the total sum is guaranteed to be available and
11 payable directly to the State on demand in the event of forfeiture. The irrevocable
12 letter of credit may not expire during the anticipated life of the mining activities and
13 the reclamation period thereafter.

14 (d) The amount of the bonds required by this section shall be sufficient to
15 assure completion of the reclamation plan by the Department in the event of forfeiture
16 and in no case may the bonds required for any permit be less than \$10,000.

17 15-612.

18 (a) (1) After receiving notification that an application for a permit has
19 been approved, but before commencing deep mining operations, the operator shall file
20 a bond with the Department.

21 (2) Before commencing operations on an additional opening not
22 included in the original bond made in the application for a permit, the operator shall
23 post an additional bond or deposit. The operator also shall submit additional
24 information that would have been required to be included with the original application
25 for a permit. On receipt of the additional bond or deposit and the additional material,
26 the Secretary may issue an amended permit covering any additional opening covered
27 by the additional bond.

28 (c) The amount of the bond shall be equal to the amount the Department
29 determines to be the cost of reclamation of the affected area. Liability under the bond
30 shall be for the duration of the mining operation, and for a period of five years after
31 the mine has been completed, provided that a bond may not be fully released until all
32 requirements of this subtitle, regulations adopted in accordance with this subtitle, and
33 permit conditions have been met.

1 (d) The bond shall be executed by the operator and by a corporate surety
2 approved by the Department.

3 (e) (1) The operator may elect to deposit cash, a certificate of deposit from
4 a [Maryland] bank ~~AUTHORIZED TO DO BUSINESS IN THE STATE THAT IS~~
5 PHYSICALLY LOCATED IN THE STATE OR THAT OTHERWISE SUBJECTS ITSELF TO
6 THE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF
7 MARYLAND, or negotiable bonds of the United States government with the
8 Department in lieu of a corporate surety. The cash deposit or market value of the
9 securities may not be less than the required sum of the bond.

10 15-823.

11 (a) After receiving notification from the Department that the application for
12 a permit has been approved, but prior to commencing mining, the applicant shall file
13 with the Department a bond for each mining operation, on a form to be prescribed and
14 furnished by the Department, payable to the State and conditioned that the operator
15 will perform faithfully all the requirements of this subtitle.

16 (d) The bond shall be executed by the permittee and corporate surety
17 licensed to do business in the State. In lieu of a corporate surety, one of the following
18 shall be acceptable:

19 (1) Deposits of cash or negotiable bonds of the United States
20 government. The cash deposit or market value of the securities shall be equal at least
21 to the required sum of the bond. The Department, on receipt of any deposit of cash or
22 securities, immediately shall forward it to the State Treasurer, who shall receive and
23 hold the bond in the name of the State, in trust, for the purposes for which the deposit
24 is made. The State Treasurer at all times is responsible for the custody and
25 safekeeping of these deposits. The permittee making the deposit may demand and
26 receive from the State Treasurer the whole or any portion of any securities so
27 deposited, on depositing with the State Treasurer other negotiable securities of the
28 classes specified in this section having a market value at least equal to the sum of the
29 bond;

30 (2) A certificate of deposit if it is equivalent to the required bond,
31 issued by a bank [within] ~~AUTHORIZED TO DO BUSINESS IN THE STATE~~ PHYSICALLY
32 LOCATED IN THE STATE OR THAT OTHERWISE SUBJECTS ITSELF TO THE
33 JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF
34 MARYLAND, and accompanied by written agreement of the bank to pay on demand to
35 the State in event of forfeit; or

1 (3) An irrevocable letter of credit if it is equivalent to the required
2 bond, issued by a bank [within] ~~AUTHORIZED TO DO BUSINESS IN the State~~
3 **PHYSICALLY LOCATED IN THE STATE OR THAT OTHERWISE SUBJECTS ITSELF TO**
4 **THE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF**
5 **MARYLAND**, and expressly states that the total sum is guaranteed to be available,
6 and payable directly to the State on demand for the surface mining and reclamation.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.