

## **CHAPTER 17**

### **(Senate Bill 174)**

AN ACT concerning

#### **Environment – Mining – Security**

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

BY repealing and reenacting, without amendments,

Article – Environment

Section 15–507(b)(1) and (d), 15–612(a), (c), and (d), and 15–823(a)

Annotated Code of Maryland

(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 15–507(c), 15–612(e)(1), and 15–823(d)

Annotated Code of Maryland

(1996 Replacement Volume and 2006 Supplement)

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

#### **Article – Environment**

15–507.

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

(c) All bonds required by this section shall be on a form provided by the Department, shall be payable to the State of Maryland, and shall be executed by the

operator and a corporate surety licensed to do business in the State. Instead of a corporate surety, any of the following are acceptable:

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

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

(i) Issued by:

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

2. A federal credit union, as defined in 12 U.S.C. § 1752, ~~THAT IS AUTHORIZED TO DO BUSINESS in the State~~ PHYSICALLY LOCATED IN THE STATE OR THAT OTHERWISE SUBJECTS ITSELF TO THE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND; and

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

(3) An irrevocable letter of credit if it is equivalent to the required bond, issued by a bank ~~THAT IS AUTHORIZED TO DO BUSINESS in the State~~ PHYSICALLY LOCATED IN THE STATE OR THAT OTHERWISE SUBJECTS ITSELF TO THE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND, and expressly states that the total sum is guaranteed to be available and payable directly to the State on demand in the event of forfeiture. The irrevocable

letter of credit may not expire during the anticipated life of the mining activities and the reclamation period thereafter.

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

15-612.

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

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

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

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

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

15-823.

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

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

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

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

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

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

**Approved by the Governor, April 10, 2007.**