

SENATE BILL 122

M3

8lr1526
CF 8lr1739

By: **Senator Astle**

Introduced and read first time: January 17, 2008

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Surface Mining – Performance Bond Cap – Repeal**

3 FOR the purpose of repealing a certain cap on the per acre amount of a performance
4 bond required by the Department of the Environment from an applicant for a
5 surface mining permit; requiring the Department to ensure that the amount of
6 the bond is sufficient to ensure compliance with federal and State
7 environmental laws; making certain stylistic changes; and generally relating to
8 repealing a cap on the amount of a performance bond required by the
9 Department of the Environment.

10 BY repealing and reenacting, with amendments,
11 Article – Environment
12 Section 15–823
13 Annotated Code of Maryland
14 (2007 Replacement Volume and 2007 Supplement)

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

17 **Article – Environment**

18 15–823.

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

24 (b) [The amount of the bond required shall be for a maximum of \$1,250 per
25 acre based on the number of acres of affected land covered by the permit.]

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(1) (I) THE DEPARTMENT SHALL ENSURE THAT THE AMOUNT**
2 **OF A BOND IS SUFFICIENT TO ENSURE COMPLIANCE WITH FEDERAL AND STATE**
3 **ENVIRONMENTAL LAWS.**

4 **(II) [But, a] A bond may not be filed for less than \$8,000.**

5 **(2) (I) [However, the] THE Department shall determine whether**
6 **the total bond fee is unreasonable and excessive for a particular tract of land and**
7 **whether a lesser total amount for the bond is sufficient to cover reclamation.**

8 **(II) In making this determination, the Department shall**
9 **consider the size of the operation, the amount of land to be mined, the acreage that is**
10 **unreclaimed at any one time, the proposed method of regrading and revegetation of**
11 **the site, the proposed use of the land following reclamation, and any other relevant**
12 **factors.**

13 (c) Liability under the bond shall be for the duration of the mining permit
14 and for a period of five years after its expiration, unless previously released in whole
15 or in part, as provided in § 15-824 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 physically located in the State or that otherwise subjects itself to the
32 jurisdiction of the U.S. District Court for the District of Maryland, and accompanied by
33 written agreement of the bank to pay on demand to the State in event of forfeit; or

34 (3) An irrevocable letter of credit if it is equivalent to the required
35 bond, issued by a bank physically located in the State or that otherwise subjects itself
36 to the jurisdiction of the U.S. District Court for the District of Maryland, and expressly
37 states that the total sum is guaranteed to be available, and payable directly to the
38 State on demand for the surface mining and reclamation.

1 (e) A bond or other security filed as above shall contain a provision that it
2 cannot be canceled by the surety, bank, or other issuing entity, except after not less
3 than 90 days written notice to the Department and to the permittee. At least 45 days
4 prior to the cancellation date indicated in the notice, the permittee shall file with the
5 Department a commitment from a surety, bank, or other issuing entity, to provide a
6 substitute bond or other security which will be effective on the cancellation date
7 indicated in the notice.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2008.