

SB0282



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0282

Introduced 2/6/2009, by Sen. John O. Jones

SYNOPSIS AS INTRODUCED:

225 ILCS 720/3.07

from Ch. 96 1/2, par. 7903.07

Amends the Surface Coal Mining Land Conservation and Reclamation Act. Provides that in the case of mined lands that are reclaimed and put back in agricultural production upon completion of mining activities, mine operators must reimburse landowners and tenants for any real production losses and increases in cost of federal crop insurance due to the subsidence. Sets out requirements for landowners and tenants in order to prove production losses warranting reimbursement. Effective January 1, 2010.

LRB096 03428 ASK 13452 b

A BILL FOR

1 AN ACT concerning mining.

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

4 Section 5. The Surface Coal Mining Land Conservation and
5 Reclamation Act is amended by changing Section 3.07 as follows:

6 (225 ILCS 720/3.07) (from Ch. 96 1/2, par. 7903.07)

7 Sec. 3.07. Prime Farmlands and High Capability Lands.

8 (a) For all prime farmlands to be mined and reclaimed, the
9 operator shall, as a minimum, (1) segregate the A horizon of
10 the natural soil, except where it can be shown that other
11 available soil materials will create a final soil having a
12 greater productive capacity, and if not used immediately,
13 stockpile this material separately from other spoil, and
14 provide needed protection from wind and water erosion or
15 contamination by other acid or toxic material; (2) segregate
16 the B horizon of the natural soil, or underlying C horizons or
17 other strata, or a combination of such horizons or other strata
18 that are shown to be both texturally and chemically suitable
19 for plant growth and that can be shown to be equally or more
20 favorable for plant growth than the B horizon, in sufficient
21 quantities to create in the regarded final soil a root zone of
22 comparable depth and quality to that which existed in the
23 natural soil, and if not used immediately, stockpile this

1 material separately from other spoil, and provide needed
2 protection from wind and water erosion or contamination by
3 other acid or toxic material; (3) replace and regrade the root
4 zone material described in (2) above with proper compaction and
5 uniform depth over the regraded spoil material; and (4)
6 redistribute and grade in a uniform manner the surface soil
7 horizon described in subparagraph (1) above.

8 (b) For all high capability lands to be mined and
9 reclaimed, all or part of the darkened surface soil shall be
10 segregated and replaced as a final cover as a last step in the
11 required grading. When available in such depth, at least 18
12 inches of the darkened surface soil shall be segregated and
13 replaced. In no case under this subsection shall less than the
14 top 8 inches of surface soil, darkened or not, be segregated or
15 replaced. This segregation and replacement requirement may be
16 altered by the Department only if it is determined on the
17 advice of competent soil scientists that other material
18 available in the cast overburden would be suitable in meeting
19 the reclamation requirements. Below the darkened surface soil,
20 the replaced material shall be suitable as an agricultural root
21 medium. The Department shall determine by rule what constitutes
22 a suitable agricultural root medium by composition and depth.
23 This Section does not apply to any land which is subject to a
24 reclamation plan approved under "The Surface-Mined Land
25 Conservation and Reclamation Act", approved September 17,
26 1971, as amended, as in effect on June 30, 1979, or to high

1 capability lands affected by mining operations prior to July 1,
2 1975.

3 (c) In the case of mined lands that are reclaimed and put
4 back in agricultural production upon completion of mining
5 activities, mine operators must reimburse landowners and
6 tenants for any real production losses and increases in cost of
7 federal crop insurance due to the subsidence.

8 Production losses must be determined by using Actual
9 Production History (APH) as required for federal crop insurance
10 to determine actual bushels per acre yield information. APH
11 requires records for a minimum of 4 years for each property
12 impacted. Information used to prove crop yields includes sale
13 receipts, farm or commercial storage records, and feed
14 consumption records. The records must be for continuous years,
15 starting with the most recent year and continuing back in time.
16 Landowner and tenants are required to provide this
17 documentation to the mine operator to set the proven
18 productivity of the property prior to mine subsidence.

19 The landowner or tenant must then demonstrate production
20 losses using the same APH method for post mine subsidence
21 production. At the end of the 4 years, if APH values
22 demonstrate production losses, then the mine operator must
23 compensate the landowner and tenant at current grain market
24 values as of January 1 of each calendar year. Compensation for
25 increased cost of federal crop insurance as a direct result of
26 mine subsidence or productivity loss due to mine subsidence

1 must be determined by comparing premiums on identical policies
2 for properties not impacted by mine subsidence in the same
3 county as the property impacted by the mining activities. If
4 there is an increase in premium as a result of the mine
5 subsidence or mining activities, then any difference in cost
6 must be paid to the landowner and tenant by the mine operator.

7 (d) ~~(e)~~ The term "prime farmland" has the same meaning it
8 has under the Federal Act. Soil horizons shall be defined by
9 the Department by rule. Such rules shall be consistent with the
10 Federal Act.

11 (e) ~~(d)~~ The term "high capability land" means land other
12 than prime farmland which the Director determines is (1)
13 capable of being reclaimed for row-crop agricultural purposes
14 and is suitable for row-crop agricultural purposes based on
15 United States Soil Conservation Service soil survey
16 classifications of the affected land prior to mining, and (2)
17 the optimum future use of which is for row-crop agricultural
18 purposes.

19 (f) ~~(e)~~ The term "darkened surface soil" shall be defined
20 by the Department by rule.

21 (g) ~~(f)~~ The requirements of this Section are in addition to
22 the other requirements of this Act.

23 (Source: P.A. 81-1015.)

24 Section 99. Effective date. This Act takes effect January
25 1, 2010.