

1 AN ACT in relation to coal.

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

4 Section 1. Short title. This Act may be cited as the
5 Coal Rights Act.

6 Section 5. Purpose. In recognition of the fact that an
7 estate of a joint owner in coal can be enjoyed only by
8 mining, removing, and selling the products of the coal, and
9 that the mining, removal, and sale of coal by one joint owner
10 therefore constitutes the use and not the destruction of the
11 common estate, the purpose of this Act is to clarify the
12 rights of joint owners of coal in this State, to promote and
13 preserve the value of coal reserves in the State, and to
14 maximize the recovery of coal through the orderly and
15 efficient development of coal reserves for the benefit of all
16 joint owners in a fair and equitable manner.

17 Section 10. Definitions. As used in this Act:

18 "Joint owner" means a person or entity that is a joint
19 tenant, a tenant in common, or a tenant by the entirety.

20 "Coal owner" means a person or entity vested with a whole
21 or undivided fee simple interest or other freehold interest
22 in the coal estate, but "coal owner" does not include a
23 person or entity with a leasehold or any other lesser estate.

24 Section 15. Venue. Proceedings under this Act must be
25 brought in the circuit court of the county in which coal
26 lands sought to be affected, or the major portion of those
27 lands, is located.

28 Section 20. Joint owners; trusts.

1 (a) If the title to coal is owned by joint tenants,
2 tenants in common, or tenants by the entirety, whether the
3 title is derived by purchase, legacy, or descent, any coal
4 owner or owners vested with at least a one-half interest in
5 the coal under the lands, or any coal lessee of the coal
6 owner or owners, upon proper petition, shall be authorized to
7 mine and remove coal from the land in the manner provided in
8 this Act, provided, however, that a petition shall not be
9 authorized under this Act for the mining and removal of coal
10 by the surface method of mining unless all of the owners of
11 the surface consent to the mining and removal of coal by the
12 surface method of mining.

13 This Act affects only coal owners, as defined in Section
14 10 of this Act, and does not affect the rights of surface
15 owners, except to the extent that they may also be coal
16 owners.

17 (b) The circuit court of the county in which the coal
18 lands or the major portion of those lands lie has the power
19 to declare a trust in those lands, appoint a trustee for all
20 persons owning an interest in the coal who are not
21 plaintiffs, and authorize the trustee to sell, execute, and
22 deliver a valid lease on those lands on behalf of all of the
23 defendants on terms and conditions approved by the circuit
24 court for the purposes provided in this Act. The lease shall
25 continue in full force and effect after the termination of
26 the trust unless the lease has previously expired by its own
27 terms.

28 Section 25. Proceedings for appointment of trustee.
29 Proceedings for the appointment of a trustee may be
30 instituted by any person or persons (i) vested in fee simple
31 with at least an undivided one-half interest in the coal
32 sought to be developed or (ii) vested with a valid and
33 subsisting coal lease, the lessor of which is a person

1 defined in subdivision (i).

2 Section 30. Procedure.

3 (a) The person or persons seeking to impress a trust
4 upon a coal interest for the purpose of leasing and
5 developing it shall join as the defendant or defendants all
6 persons, other than the plaintiff or plaintiffs, having a
7 legal interest in the coal. All parties not in being who
8 might have some contingent or future interest in the coal and
9 all persons, whether in being or not in being, having any
10 interest, whether present, future, or contingent, in the coal
11 interest sought to be leased shall be fully bound by the
12 proceedings.

13 (b) A verified petition shall be filed specifically
14 setting forth the following:

15 (1) The request of the plaintiff or plaintiffs that
16 a trustee be appointed to execute a lease granting the
17 plaintiff or plaintiffs the right to mine and remove coal
18 from the subject lands.

19 (2) The legal description of the lands.

20 (3) The interest of the plaintiff or plaintiffs in
21 the coal underlying the lands.

22 (4) The apparent interest of the defendant or
23 defendants in the coal underlying the lands.

24 (5) That the plaintiff or plaintiffs are willing to
25 purchase a mineral lease covering the interest of the
26 defendant or defendants and that the existence of these
27 unleased mineral interests is detrimental to and impairs
28 the enjoyment of the interest of the plaintiff or
29 plaintiffs.

30 (c) If in any action there are persons who would be
31 unknown parties as defined in Section 2-413 of the Code of
32 Civil Procedure, those persons may be made defendants to the
33 action in the same manner and with the same effect as

1 provided in the Code of Civil Procedure. The defendant or
2 defendants shall be given notice of the pendency of the
3 action by publication as provided in the Code of Civil
4 Procedure.

5 (d) The court shall appoint a guardian ad litem for any
6 party to the proceeding who is a ward and is not represented
7 by a guardian.

8 (e) If it appears that any person not in being, upon
9 coming into being, is or may become or may claim to be
10 entitled to any interest in the property sought to be leased,
11 the court shall appoint a guardian ad litem to appear for and
12 represent the interest in the proceeding and to defend the
13 proceeding on behalf of the person not in being, and any
14 judgment or order rendered in the proceeding is as effectual
15 for all purposes as though the person were in being and were
16 a party to the proceeding.

17 (f) The court shall take evidence and hear testimony as
18 to the matters set forth in the petition. The court shall
19 determine the prevailing terms of similar coal leases
20 obtained in the vicinity of the lands described in the
21 petition, including, but not limited to, length of primary
22 term, bonus moneys, delay rentals, royalty rates, and other
23 forms of lease payments. If, upon taking evidence and
24 hearing testimony, it appears that the material allegations
25 of the petition are true and that there has been compliance
26 with the notice provisions of this Act, the court shall enter
27 an order determining the interest of each defendant in the
28 coal sought to be leased. The court shall also appoint a
29 trustee for the purpose of executing in favor of the
30 plaintiff or plaintiffs a coal lease covering the interest of
31 the defendant or defendants. The judgment appointing the
32 trustee and authorizing the execution of the lease shall
33 specify the minimum terms which may be accepted by the
34 trustee. Those terms shall be substantially consistent with

1 the terms of other similar coal leases obtained in the
2 vicinity as determined by the court. The terms of the coal
3 lease shall also be substantially consistent with the terms
4 of other existing leases, if any, covering the remaining coal
5 interests in the lands described in the petition. The lands
6 to be covered by the coal lease shall be contiguous. To the
7 extent that any of the lands described in the petition are
8 not contiguous to other lands in the petition, those lands
9 shall be the subject of separate coal leases. The court
10 shall determine a reasonable fee to be paid to the trustee
11 and that fee, together with the reasonable attorney's fees
12 and costs of the proceeding incurred by the trustee, shall be
13 paid by the plaintiff or plaintiffs.

14 (g) The plaintiff or plaintiffs shall forthwith furnish
15 the court with a report of proceedings of the evidence
16 received and testimony taken at the hearing on the petition,
17 and the report of proceedings shall be filed and made a part
18 of the case record.

19 (h) In all suits under this Act, the court may
20 investigate and determine all questions of conflicting or
21 controverted titles, remove clouds from the title to the
22 coal, and establish and confirm the title to the coal or the
23 right to mine and remove coal from any of the lands.

24 (i) An action filed under this Act may be joined with an
25 action under the Severed Mineral Interest Act.

26 Section 35. Coal leases; report by trustee. The trustee
27 shall enter into negotiations with the plaintiff or
28 plaintiffs and shall execute a coal lease in favor of the
29 plaintiff or plaintiffs covering the interest of the
30 defendant or defendants. The terms of the coal lease shall
31 be in accordance with the findings and judgment of the court.
32 The trustee shall forthwith prepare and file a report of sale
33 of the coal lease stating the terms of the lease and the

1 payments received for the lease and give notice to all
2 parties appearing of record. If the court finds that the
3 sale was in accordance with its judgment, the sale shall be
4 confirmed by court order and the court shall order the trust
5 terminated and the trustee and his or her bond discharged.

6 Section 40. Payment. All moneys due to the defendant or
7 defendants under the lease executed by the trustee shall be
8 paid by the plaintiff or plaintiffs directly to the defendant
9 or defendants.

10 Section 45. Binding effect of lease. The sale of and
11 execution of any coal lease under this Act is binding in all
12 respects as to all of the interest in the coal and the right
13 to mine and remove the coal owned by the defendant or
14 defendants to the action in the same manner as if the
15 defendant or defendants had personally signed and delivered
16 the lease. The lease shall be binding upon the heirs,
17 legatees, personal representatives, successors, and assigns
18 of the defendant or defendants.

19 Section 50. Incapacity of trustee; subsequent
20 proceedings.

21 (a) In the event of the death or resignation of the
22 trustee or the refusal or inability of the trustee to act,
23 the court, upon its own motion or upon the motion of the
24 plaintiff or plaintiffs, shall appoint a successor trustee.

25 (b) After the entry of the initial judgment authorizing
26 a lease, all subsequent proceedings pertaining to the lands
27 and the coal interest involved in the initial litigation,
28 including subsequent leasing proceedings or proceedings by
29 the trustee requesting authority to execute and deliver
30 additional documents pertaining to a coal lease, shall be
31 commenced and prosecuted in the same case as the proceedings

1 for the initial lease. The acting trustee at the time of any
2 subsequent proceedings shall act as the trustee in those
3 proceedings. The court shall retain continuing authority
4 and jurisdiction to conduct the subsequent proceedings.

5 Section 55. Costs. All court costs incident to the
6 proceedings authorized under this Act shall be paid by the
7 plaintiff or plaintiffs.

8 Section 60. Construction. This Act shall be liberally
9 construed so that any lease issued under this Act conveys
10 merchantable title.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.