

No. 1980-215

## AN ACT

SB 1262

Amending the act of July 19, 1965 (P.L.216, No.117), entitled "An act authorizing the Secretary of Mines and Mineral Industries to acquire, either amicably or by condemnation, certain lands affected by open pit or strip mines; authorizing the reclamation of such lands, and providing for the use or disposal thereof," further providing for the acquisition and ultimate use of certain lands.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title, act of July 19, 1965 (P.L.216, No.117), entitled "An act authorizing the Secretary of Mines and Mineral Industries to acquire, either amicably or by condemnation, certain lands affected by open pit or strip mines; authorizing the reclamation of such lands, and providing for the use or disposal thereof," is amended to read:

## AN ACT

Authorizing the Secretary of **[Mines and Mineral Industries]** *Environmental Resources* to acquire, either amicably or by condemnation, certain lands affected by open pit or strip mines; authorizing the reclamation of such lands, and providing for the use or disposal thereof.

Section 2. Sections 1, 2, 3, 4, 5 and 6 of the act are amended to read:

Section 1. The Secretary of **[Mines and Mineral Industries]** *Environmental Resources*, on behalf of the Commonwealth, with the approval of the Governor, shall have the power to acquire, either amicably or by exercise of the power of eminent domain, land which has been affected by **[open pit or strip mines]** *past mining practices*, including refuse banks, and which, in its present state, is hazardous or otherwise detrimental to the health and safety of the citizens of the Commonwealth *or land which is necessary to abate the adverse effects of past mining practices on other land and water resources in Pennsylvania*, and for the restoration of which Federal funds have been made available and/or State funds have been appropriated: *Provided, however, That the secretary has determined that the acquired property:*

*(a) will, after restoration, reclamation, abatement, control or prevention of the adverse effects of past mining practices, serve public recreation or historic purposes, conservation or reclamation purposes, provide open space benefits or serve other public purposes;*

*(b) is necessary for the construction of permanent facilities to restore, reclaim, abate, control or prevent adverse effects of past mining practices, such as a mine drainage treatment plant or a relocated stream channel; or*

*(c) is, in the case of coal refuse disposal sites including all coal refuse thereon, desirable as a source of materials for subsidence control or prevention, or for backfilling mine shafts or that public ownership is necessary to prevent a reoccurrence of the adverse effects of past mining practices.*

Section 2. Prior to acquiring any land [pursuant to this act] *affected by unreclaimed surface mines*, the Secretary of [Mines and Mineral Industries] *Environmental Resources* shall extend to the owners thereof an opportunity to backfill, plant and do other acts of restoration thereon to the same extent and within the same time limits as prescribed by the act of [June 27, 1947 (P.L.1095), known as the "Anthracite Strip Mining and Conservation Act," or the act of May 31, 1945 (P.L.1198), known as the "Bituminous Coal Open Pit Mining Conservation Act," whichever the case may be,] *May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act,"* and if the owners agree to do so and, weather permitting, start such restoration within a period of thirty days, the land shall not be acquired by the Commonwealth.

Section 3. The Secretary of [Mines and Mineral Industries] *Environmental Resources* shall [attempt to] , *if possible, amicably purchase [any] land which he has determined should be acquired for the purpose of [restoration and which the owners have not agreed to restore as hereinbefore provided] this act.* In any case where the Secretary of [Mines and Mineral Industries] *Environmental Resources* and the owners of the land are unable to agree upon the amount to be paid therefor, the Secretary of [Mines and Mineral Industries] *Environmental Resources* may exercise the power of eminent domain against such land by filing in the court of common pleas of the county in which the land is located a declaration of taking in the form and manner prescribed by the act of June 22, 1964 (P.L.84, No.6), known as the "Eminent Domain Code." All proceedings in such condemnation shall be pursuant to and in compliance with the said "Eminent Domain Code." *In all cases the land shall be valued in its current condition as adversely affected by past mining practices.*

Section 4. The purchase price, in the case of an amicable acquisition, or the damages as finally determined, in the case of acquisition by condemnation, and the necessary expenses incidental thereto, shall be paid from the appropriations made by the General Assembly [for such purposes] *under this act, or under section 16(a)(1) of the act of January 19, 1968 (1967 P.L.996, No.443), known as "The Land and Water Conservation and Reclamation Act," which are hereby authorized to be used for the purposes of this act,* and/or the appropriations to which Federal funds made available for such purposes have been credited.

Section 5. The Secretary of **[Mines and Mineral Industries]** *Environmental Resources* shall have the power to backfill, plant and perform other acts of restoration on any lands so acquired to the extent and subject to such conditions as State and/or Federal funds are appropriated and available therefor.

Section 6. After restoration the Secretary of **[Mines and Mineral Industries]** *Environmental Resources* may *retain ownership of such land or*, with the approval of the Governor, transfer jurisdiction of such land, or any portion thereof, to the **[Department of Forests and Waters, the]** Pennsylvania Game Commission, the Pennsylvania Fish Commission, or such other State department or State agency as can best utilize such land for public purposes.

Section 3. Section 7 of the act, amended March 5, 1970 (P.L.129, No.50), is amended to read:

Section 7. (a) The Secretary of **[Mines and Mineral Industries]** *Environmental Resources* may, with the approval of the Governor, sell such land at public sale to the highest bidder *but for a price not less than the current market value*. Such land shall be sold subject to the condition that no open pit or strip mining shall be carried on thereon at any time thereafter. The proceeds of any such sale shall be credited to the appropriation from which the purchase price or damages were originally paid or the then current appropriation for similar purposes.

(b) *The Secretary of Environmental Resources may, with the approval of the Governor, transfer title to such land to the municipality or the county in which it is located upon the condition that the land shall only be used for public purposes.*

Section 4. Section 9 of the act, amended December 15, 1965 (P.L.1076, No.411), is amended to read:

Section 9. There is hereby appropriated to the Department of **[Mines and Mineral Industries]** *Environmental Resources* the sum of one million dollars (\$1,000,000) to be established as a separate fund for the purposes herein provided, which fund shall be called the "Coal Lands Improvement Fund," into which moneys received from sale of lands as set forth hereinbefore shall accumulate as a revolving fund. An amount not to exceed ten percent of this appropriation and an amount not to exceed ten percent of the moneys received from the sale of lands may be used for administrative purposes.

Section 5. This act shall take effect in 60 days.

APPROVED—The 12th day of December, A. D. 1980.

DICK THORNBURGH