

49-428. Reclamation of land having abandoned mines; plans and programs developed by secretary; abandoned mined-land fund created; priorities in development of plans and programs; abandoned mines eligible for inclusion; application to secretary of interior; lien on reclaimed land; civil action by landowner.

(a) The secretary is authorized to develop and adopt plans and programs for the reclamation of land having abandoned mines, which plans and programs will be eligible for participation in the abandoned mine reclamation program established by the national surface mining control and reclamation act of 1977 (public law 95-87), to submit such plans and programs, and all reports and applications contemplated by such act to the secretary of the interior, and to participate in such abandoned mine reclamation program. The governor is authorized to make certification contemplated by such act, with respect to such plans and programs, in order to authorize receipt of funds pursuant to such act. All amounts received under this section by the department shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the abandoned mined-land fund. All expenditures from the abandoned mined-land fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary. Expenditures from the abandoned mined-land fund shall be made for administration of this section and reclamation of eligible abandoned mined-land in accordance with plans and programs adopted and approved as provided in this section.

(b) In developing and adopting plans and programs for reclamation of abandoned mines, the secretary shall observe the following priorities of policy, in the order stated:

- (1) The protection of public health, safety, general welfare and property from extreme danger of adverse effects of coal mining practices;
- (2) the protection of public health, safety, and general welfare from adverse effects of coal mining practices;
- (3) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources and agricultural productivity;
- (4) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;
- (5) the protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation and conservation facilities adversely affected by coal mining practices;
- (6) the development of publicly owned land adversely affected by coal mining practices including land acquired as provided in public law 95-87 for recreation and historic purposes, conservation and reclamation purposes and open space benefits.

(c) Abandoned mines eligible for inclusion in plans and programs authorized herein are those having land or water requiring reclamation or drainage abatement, which were mined for coal or which were affected by such mining, waste banks, coal processing or other coal mining process, and which were abandoned or left in an inadequate reclamation status prior to the date of enactment of the national surface mining control and reclamation act of 1977 (public law 95-87), and for which there is no continuing reclamation responsibility under the laws of this state or of the United States.

(d) The secretary is authorized to make annual or other applications for support of the department's plans and programs and implementation of specific reclamation projects to the secretary of the interior, which applications shall contain the information required by the national surface mining control and reclamation act of 1977 (public law 95-87); and the secretary is authorized to make such other reports as may be requested from time to time by the secretary of interior in connection with administration of such plans and programs. The secretary also shall make an annual report to Congress on operations relative to reclamation of abandoned mines and make recommendations as to future uses of federal funds available for such reclamation.

(e) (1) Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the department shall itemize the moneys so expended and may file a statement thereof in the office of the clerk of the district court in the county in which the land lies, together with a verified appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended shall result in a significant increase in property value. Such statement shall constitute a lien upon the land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this subsection, who owned the surface prior to May 2, 1977, and who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.

(2) The landowner may bring a civil action in the district court of the county wherein the subject land lies within 60 days of the filing of the lien, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement herein provided. The only necessary party defendant shall be the secretary. Any party aggrieved by the decision may appeal as provided by law.

(3) The lien provided in this section shall be recorded in the county in which the land lies. Such statement shall constitute a lien upon the land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land. Such lien shall be for the benefit of the department.

(4) If liens are filed affecting a tract, affected portions of which lie in more than one county, a civil action brought to determine the increase in value as provided herein, and any action for foreclosure, may be brought in any county in which land subject to such lien lies.

History: L. 1979, ch. 169, § 16; L. 1982, ch. 226, § 1; L. 1988, ch. 192, § 29; L. 2001, ch. 5, § 186; July 1.