

HOUSE BILL 425

M3
HB 612/10 – ENV

11r2085

By: **Delegates Love, Barnes, Costa, George, Kipke, Pena–Melnik, and Sophocleus**

Introduced and read first time: February 4, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Use of Coal Combustion By–Products for Reclamation – Bond**
3 **Requirements**

4 FOR the purpose of requiring the Department of the Environment to require a bond in
5 a certain amount for a permit that authorizes the use of coal combustion
6 by–products for reclamation; and generally relating to bond requirements for
7 permits authorizing the use of coal combustion by–products for reclamation.

8 BY repealing and reenacting, with amendments,
9 Article – Environment
10 Section 15–823
11 Annotated Code of Maryland
12 (2007 Replacement Volume and 2010 Supplement)

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

15 **Article – Environment**

16 15–823.

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

22 (b) The amount of the bond required shall be for a maximum of \$1,250 per
23 acre based on the number of acres of affected land covered by the permit. But, a bond
24 may not be filed for less than \$8,000. However, the Department shall determine

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 whether the total bond fee is unreasonable and excessive for a particular tract of land
2 and whether a lesser total amount for the bond is sufficient to cover reclamation. In
3 making this determination, the Department shall consider the size of the operation,
4 the amount of land to be mined, the acreage that is unreclaimed at any one time, the
5 proposed method of regrading and revegetation of the site, the proposed use of the
6 land following reclamation, and any other relevant factors.

7 **(C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, FOR A**
8 **PERMIT THAT AUTHORIZES THE USE OF ANY COAL COMBUSTION BY-PRODUCT**
9 **FOR RECLAMATION, THE DEPARTMENT SHALL REQUIRE A BOND IN AN AMOUNT**
10 **SUFFICIENT TO ENSURE COMPLIANCE WITH APPLICABLE STATE AND FEDERAL**
11 **LAWS.**

12 **(2) THE AMOUNT OF THE BOND REQUIRED UNDER PARAGRAPH**
13 **(1) OF THIS SUBSECTION SHALL BE FOR A MAXIMUM OF \$7,500 PER ACRE BASED**
14 **ON THE NUMBER OF ACRES OF AFFECTED LAND COVERED BY THE PERMIT.**

15 **[(c)] (D)** Liability under the bond shall be for the duration of the mining
16 permit and for a period of 5 years after its expiration, unless previously released in
17 whole or in part, as provided in § 15-824 of this subtitle.

18 **[(d)] (E)** The bond shall be executed by the permittee and corporate surety
19 licensed to do business in the State. In lieu of a corporate surety, one of the following
20 shall be acceptable:

21 (1) Deposits of cash or negotiable bonds of the United States
22 government. The cash deposit or market value of the securities shall be equal at least
23 to the required sum of the bond. The Department, on receipt of any deposit of cash or
24 securities, immediately shall forward it to the State Treasurer, who shall receive and
25 hold the bond in the name of the State, in trust, for the purposes for which the deposit
26 is made. The State Treasurer at all times is responsible for the custody and
27 safekeeping of these deposits. The permittee making the deposit may demand and
28 receive from the State Treasurer the whole or any portion of any securities so
29 deposited, on depositing with the State Treasurer other negotiable securities of the
30 classes specified in this section having a market value at least equal to the sum of the
31 bond;

32 (2) A certificate of deposit if it is equivalent to the required bond,
33 issued by a bank physically located in the State or that otherwise subjects itself to the
34 jurisdiction of the U.S. District Court for the District of Maryland, and accompanied by
35 written agreement of the bank to pay on demand to the State in event of forfeit; or

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

1 **[(e)] (F)** A bond or other security filed as above shall contain a provision
2 that it cannot be canceled by the surety, bank, or other issuing entity, except after not
3 less than 90 days written notice to the Department and to the permittee. At least 45
4 days prior to the cancellation date indicated in the notice, the permittee shall file with
5 the Department a commitment from a surety, bank, or other issuing entity, to provide
6 a 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, 2011.