

tunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(h) Construction or rehabilitation of housing for disabled, displaced, or dislocated persons; grants

In addition to the authority to acquire land under subsection (d) of this section the Secretary is authorized to use money in the fund to acquire land by purchase, donation, or condemnation, and to reclaim and transfer acquired land to any State or to a political subdivision thereof, or to any person, firm, association, or corporation, if he determines that such is an integral and necessary element of an economically feasible plan for the project to construct or rehabilitate housing for persons disabled as the result of employment in the mines or work incidental thereto, persons displaced by acquisition of land pursuant to this section, or persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency as provided in section 1240 of this title or persons dislocated as the result of natural disasters or catastrophic failures from any cause. Such activities shall be accomplished under such terms and conditions as the Secretary shall require, which may include transfers of land with or without monetary consideration: *Provided*, That, to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such persons, firm, association, or corporation. No part of the funds provided under this subchapter may be used to pay the actual construction costs of housing. The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

(Pub. L. 95-87, title IV, § 407, Aug. 3, 1977, 91 Stat. 462; Pub. L. 101-508, title VI, § 6012(d)(4)-(7), Nov. 5, 1990, 104 Stat. 1388-298.)

Editorial Notes

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508, § 6012(d)(4), (5), substituted a semicolon for the period at end of par. (4) and “then, upon giving notice” for “Then, upon giving notice” in concluding provisions.

Subsec. (e). Pub. L. 101-508, § 6012(d)(6), substituted “paragraph (1) of subsection (c)” for “paragraph (1), of this subsection”.

Subsec. (g)(2). Pub. L. 101-508, § 6012(d)(7), substituted “use or” for “use of” before “disposition”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Oct. 1, 1991, see section 6014 of Pub. L. 101-508 set out as a note under section 1231 of this title.

§ 1238. Liens

(a) Filing of statement and appraisal

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 Secretary or the State, pursuant to an approved State program, shall itemize the moneys so expended and may file a statement thereof in the office of the county in which the land lies which has the responsibility under local law for the recording of judgments against land, together with a notarized 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 said 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 neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.

(b) Petition

The landowner may proceed as provided by local law to petition within sixty 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. Any party aggrieved by the decision may appeal as provided by local law.

(c) Recordation

The lien provided in this section shall be entered in the county office in which the land lies and which has responsibility under local law for the recording of judgments against land. Such statement shall constitute a lien upon the said 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 said land.

(Pub. L. 95-87, title IV, § 408, Aug. 3, 1977, 91 Stat. 465; Pub. L. 109-432, div. C, title II, § 205, Dec. 20, 2006, 120 Stat. 3016.)

Editorial Notes

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-432 struck out “who owned the surface prior to May 2, 1977, and” after “this subsection,” in last sentence.

§ 1239. Filling voids and sealing tunnels

(a) Congressional declaration of hazardous conditions

The Congress declares that voids, and open and abandoned tunnels, shafts, and entryways

resulting from any previous mining operation, constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operation may degrade the environment. The Secretary, at the request of the Governor of any State, or the the¹ governing body of an Indian tribe, is authorized to fill such voids, seal such abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or surface mines which the Secretary determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment. State regulatory authorities are authorized to carry out such work pursuant to an approved abandoned mine reclamation program.

(b) Limitation on funds

Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be allocated to the respective States or Indian tribes under the provisions of paragraphs (1) and (5) of section 1232(g) of this title.

(c) Limitation on expenditures

(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 1233(a)(1) of this title, except that for the purposes of this section the reference to coal in section 1233(a)(1) of this title shall not apply.

(2) The provisions of section 1234 of this title shall apply to this section, with the exception that such mined lands need not have been mined for coal.

(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 1240a(a) of this title.

(d) Disposal of mine wastes

In those instances where mine waste piles are being reworked for conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

(e) Land acquisition

The Secretary may acquire by purchase, donation, easement, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

(Pub. L. 95-87, title IV, § 409, Aug. 3, 1977, 91 Stat. 465; Pub. L. 101-508, title VI, § 6009, Nov. 5, 1990, 104 Stat. 1388-296.)

Editorial Notes

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508, § 6009(1), substituted “the governing body of an Indian tribe” for “chairman of any tribe”.

Subsec. (b). Pub. L. 101-508, § 6009(2), substituted “Indian tribes under the provisions of paragraphs (1) and

(5) of section 1232(g) of this title” for “Indian reservations under the provisions of subsection 1232(g) of this title”.

Subsec. (c). Pub. L. 101-508, § 6009(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary may make expenditures and carry out the purposes of this section without regard to provisions of section 1234 of this title in such States or Indian reservations where requests are made by the Governor or tribal chairman and only after all reclamation with respect to abandoned coal lands or coal development impacts have been met, except for those reclamation projects relating to the protection of the public health or safety.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Oct. 1, 1991, see section 6014 of Pub. L. 101-508 set out as a note under section 1231 of this title.

§ 1240. Emergency powers

(a) The Secretary is authorized to expend moneys from the fund for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices, on eligible lands, if the Secretary makes a finding of fact that—

(1) an emergency exists constituting a danger to the public health, safety, or general welfare; and

(2) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

(b) The Secretary, his agents, employees, and contractors shall have the right to enter upon any land where the emergency exists and any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare. Such entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property nor of trespass thereof. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: *Provided, however,* That this provision is not intended to create new rights of action or eliminate existing immunities.

(Pub. L. 95-87, title IV, § 410, Aug. 3, 1977, 91 Stat. 466.)

§ 1240a. Certification

(a) Certification of completion of coal reclamation

(1) The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 1235 of this title may certify to the Secretary that all of the priorities stated in section 1233(a) of this title for eligible lands and waters pursuant to section 1234 of this title have been achieved. The Secretary, after notice in the

¹ So in original.