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HOUSE BILL NO. 2392

Offered January 20, 1997

A BILL to amend and reenact § 45.1-241 of the Code of Virginia, relating to mine reclamation performance bonds.

Patron—Kilgore

Referred to Committee on Mining and Mineral Resources

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-241 of the Code of Virginia is amended and reenacted as follows:

§ 45.1-241. Performance bonds.

A. After a coal surface mining permit application has been approved, but before such permit is issued, the applicant shall file with the Director on a form prescribed and furnished by the Director, a bond for performance payable to the Commonwealth and conditioned upon faithful performance of all the requirements of this chapter and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of coal surface mining and reclamation operations are initiated and conducted within the permit area, the permittee shall file with the Director an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit, shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential, and shall be determined by the Director. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work has to be performed by the Director in the event of forfeiture, but in no case shall the bond for the entire area under one permit be less than \$10,000.

B. Liability under the bond shall be for the duration of the coal surface mining and reclamation operation and for a period coincident with the operator's responsibility for revegetation as required under regulations promulgated pursuant to § 45.1-242. The bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or of the Commonwealth, or negotiable certificates of deposit of any bank organized for transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

C. The Director may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the Director, pursuant to regulations, the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount. The Director may also accept a letter of credit on certain designated funds issued by a financial institution authorized to do business in the Commonwealth, provided that (i) the Attorney General approves the acceptance of such letter of credit; (ii) the letter of credit affords protection to the Department equivalent to a corporate surety's bond; and (iii) the letter of credit satisfies such other criteria deemed appropriate by the Director. The Director is further authorized to develop and promulgate an alternative system that will achieve the objectives and purposes of the bonding program established under this section.

D. Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

E. The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the Director from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

INTRODUCED

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