

MINING COAL UNDER STATE LANDS - SUBSIDENCE REGULATION
Act of Jun. 1, 1933, P.L. 1409, No. 296
AN ACT

Cl. 52

Authorizing the creation of State mining commissions, with judicial powers, to have exclusive jurisdiction with certain exceptions over the mining of coal within or under land, easements or right of ways purchased, condemned or otherwise acquired by the Commonwealth, and over the assessment and award of benefits, improvements, and damages for coal required to be left in place by reason of the obligation to furnish support for land, easements or right of ways purchased, condemned or otherwise acquired by the Commonwealth, whether the damages are payable by the Commonwealth or a county or a municipality; authorizing counties and municipalities to enter into agreements to indemnify or reimburse the Commonwealth for damages to its lands, easements or right of ways caused by the removal of coal under or adjacent thereto; waiving vertical and lateral support therefor under certain conditions; reserving the right to acquire absolute vertical and lateral support; reserving the power to establish detours for the removal of coal underlying State highways; providing for appeals to the courts of common pleas from orders assessing damages for coal required to be left in place.

(Title reenacted and amended July 3, 1941, P.L.259, No.120)

Section 1. Be it enacted, &c., That whenever the Commonwealth has heretofore acquired or may hereafter acquire lands, easements or right of ways underlaid by mineable coal, the State Mining Commission created in accordance with the provisions of this act upon application of the Commonwealth, the county or the municipality within which such lands, easements or right of ways are situated or the owner of the coal underlying such lands, or the person entitled to remove the same in case the assessment of damages is desired, or of the owner or person entitled to remove the coal only if the removal of the coal is desired in lieu of damages, is hereby empowered to determine, authorize, and direct the underlying or adjacent coal, if any, to be left in place for the purpose of furnishing vertical or lateral support to said land, easement or right of way, the underlying or adjacent coal, if any, which may be removed, and the material, if any, to be substituted for the coal so removed, together with the method and manner of placing such material in the mine workings, for the purpose of furnishing both vertical and lateral support to such land, easement or right of way and the party or parties by whom the expense thereof shall be paid. The application on behalf of the Commonwealth shall be made by the department, board or commission of the State government having jurisdiction over the particular land, easement or right of way underlaid by mineable coal. The president judge of the court of common pleas of the county in which the land, easement or right of way is situated, who shall be the chairman thereof, one member of the Public Utility Commission or an engineer

designated by it, the Secretary of Mines or his designated representative, the head of the department, board or commission of the State government owning the lands, easements or right of ways in question or his designated representative, and an engineer designated by the owner or person entitled to remove the coal, are hereby constituted a special commission to be known as the State Mining Commission. This commission shall have exclusive jurisdiction of the mining of coal under lands, easements and right of ways purchased, condemned or otherwise acquired by the Commonwealth and judicial powers to hear and determine all evidence which may be presented; to compel the attendance of witnesses and the production of books, records, and other information by subpoena; to conduct such investigations as it may deem necessary; to make and enforce such orders, decrees and rules of procedure as it may deem advisable; to determine and assess damages, if any, for coal required by the said Commission to be left in place and benefits, if any, for improvements or betterments; to allocate among the parties in interest the cost of its proceedings as well as any work which it may order performed; and to enforce its orders and decrees through the court of common pleas of the county in which the lands, easements and right of ways purchased, condemned or otherwise acquired by the Commonwealth is situated. The proceedings before the Commission, including all notes of testimony and exhibits, shall be filed and docketed in the office of the prothonotary of the said court of common pleas at the expense of the county. A majority of the commission, of which the chairman must be one, may act for and exercise the powers of the commission. All parties in interest shall have the same right of appeal from decisions, orders and decrees of the State Mining Commission as now or hereafter provided for appeals from the decisions, orders and decrees of courts of common pleas: Provided, That in case of an appeal from an award by the commission of compensation for damages resulting from an appropriation of property under the provisions of this act the appeal shall, in case any party is entitled to demand a jury trial under section eight of Article sixteen of the Constitution of this Commonwealth, be to the courts of the proper county thereof.

(1 reenacted and amended July 3, 1941, P.L.259, No.120; repealed in part June 3, 1971, P.L.118, No.6)

Section 2. The condemnation or acquisition of any land, easement or right of way by the Commonwealth as hereinabove provided, shall not be considered as including the condemnation or acquisition of any coal which may be removed under the terms of any agreement, decision, order or decree authorized by this act.

(2 reenacted and amended July 3, 1941, P.L.259, No.120)

Section 3. Any damages sustained by the owner of the coal, or the person entitled to remove the same, as a result of any obligation to furnish vertical and lateral support arising because of the acquisition of such land, easement or right of way by the Commonwealth which obligation did not exist prior to the date of such acquisition, shall be determined by the State Mining Commission in accordance with the provisions of this act.

Such damages as finally determined shall be paid by the Commonwealth, the county or the municipality in accordance with existing laws, and the damages payable by the Commonwealth shall be payable out of funds appropriated to the department, board or commission for the purchase, condemnation or other acquisition of the lands, easements or right of ways under consideration. Any county or municipality which may be liable for damages for coal required to be left in place for the support and safety of lands, easements or right of ways owned by the Commonwealth as herein set forth, shall have authority to enter into agreements to indemnify the Commonwealth for any damages, or reimburse it for the replacement of any structure or other improvement which may be injured or destroyed by the removal of coal under or adjacent to lands, easements or right of ways owned by the Commonwealth. This act shall not be construed to create any new right of action for damages or any right of action or procedure, not existing or available at the time of the original acquisition of such easement.

(3 reenacted and amended July 3, 1941, P.L.259, No.120)

Section 4. Except as hereinafter specifically provided by this act, vertical and lateral support by underlying code for any land, easement or right of way purchased, condemned or otherwise acquired by the Commonwealth is waived, (1) (a) Whenever the State Mining Commission finds that the cost of restoring any possible subsidence or replacing any damage to structures or other improvements on such land, easement or right of way is less than the amount payable for damages for coal required to be left in place in order to furnish such vertical or lateral support, or (b) if no damages are payable by reason of the failure of the party or parties entitled thereto to institute proper proceedings to recover the same, within the period prescribed by law, whenever the owner or person entitled to remove the coal shall enter into an agreement to indemnify the Commonwealth for any damages, or reimburse it for the replacement of any structure or other improvement, which may be injured or destroyed by the removal of coal owned or adjacent to lands, easements or right of ways owned by the Commonwealth, and (2) Whenever the commission finds from the evidence before it that such waiver of support and the removal of coal will not result in loss of life or personal injury to persons properly using said land, easement or right of way.

(4 amended June 1, 1945, P.L.1335, No.430)

Section 5. Nothing in this act shall be construed to prevent the Department of Highways from entering into agreements with the owner of the coal underlying any State highway for the establishment of detours to permit the removal of such coal and the substitution therefor of other materials for the furnishing of vertical or lateral support to such State highway.

(5 reenacted and amended July 3, 1941, P.L.259, No.120)

Section 6. Nothing in this act shall be construed to prevent any department, board or commission of the State government from purchasing, condemning or otherwise acquiring the absolute right of support for any lands, easements or right of ways purchased, condemned or acquired in the name of the Commonwealth, and damages sustained by the owner of underlying coal or the person

entitled to remove the same shall be determined and paid in accordance with existing laws relating to the purchase, condemnation or other acquisition of lands, easements and right of ways by the Commonwealth.

(6 reenacted and amended July 5, 1941, P.L.259, No.120)

Section 7. This act shall apply in all counties of the Commonwealth.

(7 reenacted and amended July 3, 1941, P.L.259, No.120)