

**BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT - PLANNED
SUBSIDENCE AND RETROACTIVITY**

Act of Jul. 21, 2017, P.L. 345, No. 32

Cl. 52

Session of 2017

No. 2017-32

SB 624

AN ACT

Amending the act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), entitled "An act to protect the public health, welfare and safety by regulating the mining of bituminous coal; declaring the existence of a public interest in the support of surface structures; providing a remedy for the restoration or replacement of water supplies affected by underground mining; providing a remedy for the restoration or replacement or compensation for surface structures damaged by underground mining; providing standards for the prevention of hazards to human safety and material damage to certain structures; requiring permits, and in certain circumstances bonds, for the mining of bituminous coal; providing for the filing of maps or plans with recorders of deeds; providing for the giving of notice of mining operations to political subdivisions and surface landowners of record; requiring mine inspectors to accompany municipal officers and their agents on inspection trips; granting powers to public officers and affected property owners to enforce the act; requiring grantors to certify as to whether any structures on the lands conveyed are entitled to support from the underlying coal and grantees to sign an admission of a warning of the possible lack of any such right of support; requiring grantors to provide notice of the existence of voluntary agreements for the restoration or replacement of water supplies or for the repair or compensation for structural damage; imposing duties on the Department of Environmental Resources for the compilation and analysis of data; and imposing liability for violation of the act," providing for planned subsidence and for retroactivity.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 5 of the act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as The Bituminous Mine Subsidence and Land Conservation Act, is amended by adding subsections to read:

Section 5. Permit; application; map or plan; bond or other security; filing; general rulemaking authority; prevention of damage; mine stability; maintenance of use and value of lands.--* * *

(i) In a permit application to conduct bituminous coal mining operations subject to this act, planned subsidence in a predictable and controlled manner which is not predicted to result in the permanent disruption of premining existing or designated uses of surface waters of the Commonwealth shall not be considered presumptive evidence that the proposed bituminous coal mining operations have the potential to cause pollution as defined in section 1 of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law."

(j) The provisions of subsection (i) shall only apply if:

(1) a person submits an application to conduct bituminous mining operations subject to this act to the department that provides for the restoration of the premining range of flows and restoration of premining biological communities in any waters of this Commonwealth predicted to be adversely affected by subsidence. The restoration shall be consistent with the premining existing and designated uses of the waters of this Commonwealth; and

(2) the application is approved by the department.

Section 2. Section 9.1(d) of the act is amended to read:

Section 9.1. Prevention of hazards to human safety and material damage to certain buildings.--* * *

(d) Nothing in this act shall be construed to amend, modify or otherwise supersede:

(1) standards related to prevailing hydrologic balance contained in the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. § 1201 et seq.) and regulations promulgated by the Environmental Quality Board for the purpose of obtaining or maintaining primary jurisdiction over the enforcement and administration of that act [nor]; and

(2) except as provided for under section 5(i), any standard contained in the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," or any regulation promulgated thereunder by the Environmental Quality Board.

Section 3. The addition of section 5(i) and (j) and the amendment of section 9.1(d) of the act shall apply to all permits issued under the act after October 8, 2005.

Section 4. This act shall take effect immediately.

APPROVED--The 21st day of July, A.D. 2017.

TOM WOLF