
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **547** Session of
1961

INTRODUCED BY MESSRS. MAHADY, SCOTT, WOLFE,
McMENAMIN AND MURRAY, APRIL 24, 1961.

REFERRED TO COMMITTEE ON JUDICIARY GENERAL,
APRIL 24, 1961.

AN ACT

Amending the act of July 17 1957 (P L 984) entitled "An act requiring that notice of any prior or contemporaneous severance of coal or the right of surface support from the surface be set forth in a certain manner in every deed agreement of sale title insurance policy or other instrument in writing which sells conveys transfers releases quitclaims or agrees to sell convey transfer release or quitclaim or insures or agrees to insure title to the surface of land and providing for the

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through is to be omitted from bill. Underlining indicates new matter added to existing law. [Brackets] indicate matter stricken from existing law.

effect upon the vendor grantor transferor releasor or person who quitclaims or insures title or agrees to do any of the foregoing for noncompliance therewith" modifying the form of notice providing that the act does not apply to mortgage and quitclaim transactions and specifying the situations to which the act applies

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

1 Section 1 Sections 1 and 2 act of July 17 1957 (P L 984) entitled
2 "An act requiring that notice of any prior or contemporaneous sov-
3 erance of coal or the right of surface support from the surface be
4 set forth in a certain manner in every deed agreement of sale title
5 insurance policy or other instrument in writing which sells conveys
6 transfers releases quitclaims or agrees to sell convey transfer re-
7 lease or quitclaim or insures or agrees to insure title to the surface of
8 land and providing for the effect upon the vendor grantor transferor
9 releasor or person who quitclaims or insures title or agrees to do any
10 of the foregoing for noncompliance therewith" are amended to read

11 Section 1 (a) Every deed agreement of sale title insurance policy
12 and other instrument in writing except a mortgage a quitclaim deed

1 or an agreement to convey by quitclaim hereafter executed and de-
2 livered with respect to the surface of land and for the purpose of
3 selling conveying transferring [releasing quitclaiming] agreeing to
4 sell convey or transfer [release or quitclaim] or for insuring or
5 agreeing to insure the title to said surface of land shall if [there is
6 or has been a prior or contemporaneous severance either of any coal
7 underneath any part of said surface or of any part of the right of
8 surface support for said surface] any of the conditions of subsection
9 (b) of this section are present include therein set forth entirely either
10 in capital letters or in type or writing distinctively different from the
11 balance of the instrument or set apart from the balance of the instru-
12 ment by underlining a prominent notice either in the form of one of
13 the following paragraphs or else in a form which is essentially the same
14 as and which expresses precisely the same meaning and notice as one
15 of said following paragraphs

16 [(A)] (1) "This document may not sell convey transfer include
17 or insure the title to the coal and right of support underneath the
18 surface land described or referred to herein and the owner or owners
19 of such coal may have the complete legal right to remove all of such

1 coal and in that connection damage may result to the surface of the
2 land and any house building or other structure on or in such land The
3 inclusion of this notice does not enlarge restrict or modify any legal
4 rights or estates otherwise created transferred excepted or reserved by
5 this instrument"

6 [(B)] (2) "This document does not sell convey transfer include or
7 insure the title to the coal and right of support underneath the surface
8 land described or referred to herein and the owner or owners of such
9 coal have the complete legal right to remove all of such coal and in
10 that connection damage may result to the surface of the land and any
11 house building or other structure on or in such land The inclusion
12 of this notice does not enlarge restrict or modify any legal rights or
13 estates otherwise created transferred excepted or reserved by this
14 instrument"

15 (b) The notice prescribed by subsection (a) of this section must
16 be included in each of the following cases

17 (1) If there is or has been a prior severance of record either
18 of any coal underneath any part of the surface referred to in sub-
19 section (a) of section 1 hereof or of any part of the right of surface
20 support derived from or in connection with any of the said coal or

1 (2) If there is or has been a prior severance not of record either
2 of any coal underneath any part of the surface referred to in sub-
3 section (a) of section 1 hereof or of any part of the right of surface
4 support derived from or in connection with any of said coal and the
5 person firm or entity who or which sells conveys transfers insures title
6 or agrees to do any of those things has notice of or reason to know
7 of such severance or

8 (3) If there is a contemporaneous severance whether or not of
9 record of any coal underneath any part of the surface referred to in
10 subsection (a) of section 1 hereof or of any part of the right of surface
11 support derived from or in connection with any of said coal

12 Section 2 [The] If subsection (a) of section 1 of this act is
13 applicable then the person firm or entity who or which alone or
14 together with others sells conveys transfers [releases or quitclaims]
15 or insures the title to the surface of land by an instrument in writing
16 or agrees in writing to do any of the foregoing [or who insures or
17 agrees to insure title to the surface of land in any instrument in writing
18 which does not comply with the provisions of] without including the
19 notice prescribed by subsection (a) of section 1 of this act shall be

1 liable in damages to the grantee purchaser insured or other party to
2 the instrument in an action in assumpsit based upon implied contract
3 to the same extent as if [he had expressly agreed warranted and in-
4 sured] there was expressly included in the instrument in writing an
5 agreement and assurance that all coal underneath the surface described
6 or referred to in such instrument in writing and the complete right
7 to surface support [therefor] derived from or in connection with
8 said coal were included in the property sold conveyed transferred
9 [released quitclaimed] agreed to be sold conveyed or transferred [re-
10 leased or quitclaimed or the title to which] or to which the title was
11 insured or agreed to be insured Failure to comply with the provisions
12 of section 1 of this act shall not create convey transfer enlarge impair
13 or otherwise affect any right to or waiver of surface support or any
14 title to land or any other estate or interest in land and shall not
15 impair or otherwise affect any waiver or release of damages or any
16 immunity from liability or damages other than by giving rise to a cause
17 of action as hereinabove specifically provided

18 Section 2 This act shall take effect in six months provided however
19 that the forms of notice set forth herein may validly be used prior
20 to said effective date

We certify that this bill has passed the Senate and the House of Representatives.

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Chief Clerk, Senate

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President pro tempore, Senate

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Speaker, House of Representatives

Approved The day of A. D. 1961.

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Governor