

No. 42  
AN ACT

HB 929

To protect the public health, welfare and safety by giving to the Department of Mines and Mineral Industries the right without liability to enter upon private lands, to combat mine fires, refuse bank fires and subsidence resulting from mining and providing for remedies to secure such rights.

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

Section 1. This act shall be deemed to be an exercise of the police powers of the Commonwealth for the protection of the health, safety and general welfare of the people of the Commonwealth, by providing a means for combating mine fires, refuse bank fires and subsidence resulting from mining.

Section 2. It is hereby determined by the General Assembly of Pennsylvania and declared as a matter of legislative findings that the delay in instituting remedial projects because of time consumed in trying to locate property owners and in trying to secure the right to enter upon their lands to combat mine fires, refuse bank fires and subsidence resulting from mining has caused great damage, has permitted controllable situations to become large, overpowering dangers to life and property.

Section 3. Whenever the Secretary of Mines and Mineral Industries makes a finding of fact that:

(1) A mine fire, refuse bank fire or subsidence resulting from mining is at a stage where immediate action must be taken; and

(2) An emergency exists and no other person or agency will act to combat the condition; and

(3) The owners of the property upon which entry must be made to combat the mine fire, refuse bank fire or subsidence resulting from mining are not known, are not readily available or will not give permission for the Secretary of Mines and Mineral Industries, political subdivisions of the Commonwealth or municipalities, their agents, employes or contractors to enter upon such premises, or the delay entailed in reaching said owners and in securing from them the right to enter upon the premises constitutes a clear and immediate danger to the life or property of others, then, upon giving notice to the owners if known or by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality in which the land lies, the Secretary of Mines and Mineral Industries, political subdivisions of the Commonwealth or municipalities, their agents, employes or contractors, shall have the right to enter upon the premises to combat the mine fire, refuse bank fire or subsidence

<sup>1</sup> "subsistence" in original.

resulting from mining and to take all action necessary or expedient to do so. As soon as practicable thereafter, the Department of Mines and Mineral Industries, the political subdivisions of the Commonwealth or municipalities, so entering the premises and acting as above provided shall restore the premises so entered upon to the condition at the time of such entry to the extent that this may be reasonably practical. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be charged against such land to mitigate or offset any claim or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry.

The Secretary of Mines and Mineral Industries, political subdivisions of the Commonwealth or municipalities are hereby authorized to execute in favor of any agency of the Federal government and political subdivisions of the Commonwealth or municipalities are hereby authorized to execute in favor of any agency of the Commonwealth in any project so involving mine fires, refuse bank fires or subsidence resulting from mining agreements to hold such agencies harmless and to indemnify them from any claim which might arise for failure to acquire necessary releases from property owners or because of any failure to comply with any applicable statute.

Section 4. The court of common pleas of the county in which the land lies shall have jurisdiction to grant an injunction to prevent interference with any project as aforesaid upon suit brought by the Attorney General of the Commonwealth.

Section 5. This act is intended as remedial legislation designed to cure existing evils and abuses and each and every provision hereof is intended to receive a liberal construction such as will best effectuate that purpose, and no provision is intended to receive a strict or limited construction.

Section 6. It is hereby declared that the provisions of this act are severable one from another and if for any reason this act shall be judicially declared and determined to be unconstitutional so far as relates to one or more words, phrases, clauses, sentences, paragraphs or sections hereof, such judicial determination shall not affect any other provision of this act. It is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the validity in any respect of one or more of the provisions of this act.

Section 7. This act shall take effect immediately.

APPROVED—The 3rd day of April, A. D. 1968.

RAYMOND P. SHAFER