



# State of Tennessee

## PUBLIC CHAPTER NO. 401

HOUSE BILL NO. 993

By Representatives Lamberth, Cochran, Powers

Substituted for: Senate Bill No. 808

By Senators Johnson, Southerland, Yager, Walley

AN ACT to amend Tennessee Code Annotated, Title 4; Title 59; Title 67; Title 68; Title 69 and Chapter 548 of the Public Acts of 2021, relative to coal mining and reclamation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 548 of the Public Acts of 2021, is amended by deleting the last sentence of SECTION 17 and substituting instead:

All other provisions of this act take effect on the effective date of the secretary of the interior's approval of this state's exercise of primacy over the regulation of surface coal mining and reclamation operations within its territorial boundaries, the public welfare requiring it.

SECTION 2. Tennessee Code Annotated, Section 59-8-107, is amended by adding the following as new subsections:

( ) No permit, renewal, or transfer of a permit shall be issued to an applicant until all fees required by this section are paid in full.

( )

(1) If a fee required by this section is not paid within fifteen (15) days after the due date, a penalty of five percent (5%) of the amount due accrues at once. Thereafter, on the first day of each month during which a fee or accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance accrues. In addition, a fee not paid within fifteen (15) days after the due date bears interest at the maximum rate permitted under title 47, chapter 14, or another law, from the due date to the date paid; provided, however, the total of the penalties and interest that accrue pursuant to this subsection ( ) must not exceed three (3) times the amount of the original fee.

(2) If a fee is not paid in full, including any interest and penalty within sixty (60) days of the due date, the commissioner may suspend the permit, pending the opportunity for hearing, until the amount due is paid in full, and refer the matter for collection.

(3) In addition to the other powers and authority provided in this section, the commissioner is authorized to seek injunctive relief in the chancery court of Sumner County or any court of competent jurisdiction for a judgment in the amount owed the state under this chapter.

(4)

(A) A person required to pay the fees set forth under this chapter who disagrees with the calculation or applicability of the fee may petition the commissioner for a hearing.

(B) In order to perfect a hearing, a petition for a hearing, together with the total amount of the fee due, must be received by the commissioner not later than fifteen (15) days after the due date.

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(C) The hearing must be conducted in accordance with contested case provisions in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(D) If it is finally determined that the amount in dispute was improperly assessed, the commissioner shall return the amount determined to be improperly assessed with interest.

SECTION 3. Tennessee Code Annotated, Section 59-8-108(a), is amended by deleting the language "ten thousand dollars (\$10,000)" and substituting "seventy-five thousand dollars (\$75,000)".

SECTION 4. Tennessee Code Annotated, Section 59-8-108(c), is amended by deleting the subsection.

SECTION 5. Tennessee Code Annotated, Section 59-8-110(c)(2), is amended by deleting the language "regulatory authority" and substituting instead "commissioner".

SECTION 6. Tennessee Code Annotated, Section 59-8-111(c)(4), is amended by deleting the language "ground waters" and substituting instead "groundwaters".

SECTION 7. Tennessee Code Annotated, Section 59-8-112(b)(2)(E), is amended by deleting the language "regulatory authority" and substituting the language "commissioner".

SECTION 8. Tennessee Code Annotated, Section 59-8-117(a), is amended by deleting the first sentence and substituting instead:

A permittee who violates this part, rules promulgated pursuant to this part, or any permit condition required by this part, may be assessed a civil penalty by the commissioner, except that if the violation leads to the issuance of a cessation order, a civil penalty must be assessed, and in either case, such permittee is also liable for any damages to the state resulting from the violation.

SECTION 9. Tennessee Code Annotated, Section 59-8-117(b)(1), is amended by deleting the language "A civil penalty shall be assessed by the commissioner" and substituting instead "The commissioner shall assess a civil penalty or damages".

SECTION 10. Tennessee Code Annotated, Section 59-8-117, is amended by deleting the language "penalty" wherever it appears in subdivisions (b)(2) and (b)(4) and subsection (c) and substituting instead "assessment".

SECTION 11. Tennessee Code Annotated, Section 59-8-117(d), is amended by deleting the language "or penalty".

SECTION 12. Tennessee Code Annotated, Section 59-8-117(l), is amended by deleting the language "which" and substituting instead "that".

SECTION 13. Tennessee Code Annotated, Section 59-8-117, is amended by adding the following as a new subsection:

( ) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this chapter and to defray expenses necessary for activities supporting the reclamation of land and water adversely affected by surface coal mining and exploration activities after August 3, 1977.

SECTION 14. Tennessee Code Annotated, Section 59-8-131(b)(3), is amended by deleting the language "or representative of employees".

SECTION 15. Tennessee Code Annotated, Section 59-8-131(b)(4), is amended by deleting the subdivision.

SECTION 16. Tennessee Code Annotated, Title 59, Chapter 8, Part 1, is amended by adding the following as a new section:

**59-8-133. Postponement of efforts to obtain exclusive jurisdiction over surface coal mining and reclamation operations.**

(a) Notwithstanding a law to the contrary, the state shall postpone efforts to obtain exclusive jurisdiction over surface coal mining and reclamation operations within this state under the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) until the commissioner notifies the speaker of the senate and the speaker of the house of representatives that the commissioner has determined that:

(1) The surface coal mining industry in this state is fiscally self-sufficient to support a state-operated program, with revenues from fees and taxes generated from the industry anticipated to meet required expenditures, using data from the report required by subsection (c); and

(2) This state has allocated monies sufficient to address actual and potential liabilities resulting from insufficient bonding relative to surface coal mining and reclamation operations.

(b) During the period of postponement pursuant to subsection (a), the department shall consult with the Tennessee Mining Association regarding the status of surface coal mining and reclamation operations in this state. The department of environment and conservation shall notify the department of revenue when any application for primacy is submitted.

(c) By July 1, 2024, and each July 1 thereafter until July 1, 2028, the department shall submit a report to the speaker of the senate and the speaker of the house of representatives containing data on:

(1) The tonnage of coal severed from the ground in surface coal mining and reclamation operations in this state during the prior fiscal year; and

(2) The amount of projected revenue from acreage fees, severance taxes, permit fees, and amendment fees that would have been required by state law if the state had exclusive jurisdiction over surface coal mining and reclamation operations in this state during the prior fiscal year.

(d) If, by July 1, 2028, the commissioner has not notified the speaker of the senate and the speaker of the house of representatives pursuant to subsection (a), any obligation of this state to seek to obtain exclusive jurisdiction over surface coal mining and reclamation operations within this state under the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq.) terminates.

SECTION 17. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 18. This act takes effect upon becoming a law, the public welfare requiring it.

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PASSED: April 21, 2023



CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES



RANDY MCNALLY  
SPEAKER OF THE SENATE

APPROVED this 11<sup>th</sup> day of May 2023



BILL LEE, GOVERNOR