

1 AN ACT in relation to coal.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Coal Rights Act.

6 Section 5. Purpose. In recognition of the fact that an
7 estate of a joint owner in coal can be enjoyed only by
8 mining, removing, and selling the products of the coal, and
9 that the mining, removal, and sale of coal by one joint owner
10 therefore constitutes the use and not the destruction of the
11 common estate, the purpose of this Act is to clarify the
12 rights of joint owners of coal in this State, to promote and
13 preserve the value of coal reserves in the State, and to
14 maximize the recovery of coal through the orderly and
15 efficient development of coal reserves for the benefit of all
16 joint owners in a fair and equitable manner.

17 Section 10. Definitions. As used in this Act:

18 "Joint owner" means a person or entity that is a joint
19 tenant, a tenant in common, or a tenant by the entirety.

20 "Coal owner" means a person or entity vested with a whole
21 or undivided fee simple interest or other freehold interest
22 in the coal estate, but "coal owner" does not include a
23 person or entity with a leasehold or any other lesser estate.

24 Section 15. Venue. Proceedings under this Act must be
25 brought in the circuit court of the county in which coal
26 lands sought to be affected, or the major portion of those
27 lands, is located.

28 Section 20. Joint owners; trusts.

1 (a) If the title to coal is owned by joint tenants,
2 tenants in common, or tenants by the entirety, whether the
3 title is derived by purchase, legacy, or descent, any coal
4 owner or owners vested with at least a one-half interest in
5 the coal under the lands, or any coal lessee of the coal
6 owner or owners, upon proper petition, shall be authorized to
7 mine and remove coal from the land in the manner provided in
8 this Act.

9 (b) The circuit court of the county in which the coal
10 lands or the major portion of those lands lie has the power
11 to declare a trust in those lands, appoint a trustee for all
12 persons owning an interest in the coal who are not
13 plaintiffs, and authorize the trustee to sell, execute, and
14 deliver a valid lease on those lands on behalf of all of the
15 defendants on terms and conditions approved by the circuit
16 court for the purposes provided in this Act. The lease shall
17 continue in full force and effect after the termination of
18 the trust unless the lease has previously expired by its own
19 terms.

20 Section 25. Proceedings for appointment of trustee.
21 Proceedings for the appointment of a trustee may be
22 instituted by any person or persons (i) vested in fee simple
23 with at least an undivided one-half interest in the coal
24 sought to be developed or (ii) vested with a valid and
25 subsisting coal lease, the lessor of which is a person
26 defined in subdivision (i).

27 Section 30. Procedure.

28 (a) The person or persons seeking to impress a trust
29 upon a coal interest for the purpose of leasing and
30 developing it shall join as the defendant or defendants all
31 persons, other than the plaintiff or plaintiffs, having a
32 legal interest in the coal. All parties not in being who

1 might have some contingent or future interest in the coal and
2 all persons, whether in being or not in being, having any
3 interest, whether present, future, or contingent, in the coal
4 interest sought to be leased shall be fully bound by the
5 proceedings.

6 (b) A verified petition shall be filed specifically
7 setting forth the following:

8 (1) The request of the plaintiff or plaintiffs that
9 a trustee be appointed to execute a lease granting the
10 plaintiff or plaintiffs the right to mine and remove coal
11 from the subject lands.

12 (2) The legal description of the lands.

13 (3) The interest of the plaintiff or plaintiffs in
14 the coal underlying the lands.

15 (4) The apparent interest of the defendant or
16 defendants in the coal underlying the lands.

17 (5) That the plaintiff or plaintiffs are willing to
18 purchase a mineral lease covering the interest of the
19 defendant or defendants and that the existence of these
20 unleased mineral interests is detrimental to and impairs
21 the enjoyment of the interest of the plaintiff or
22 plaintiffs.

23 (c) If in any action there are persons who would be
24 unknown parties as defined in Section 2-413 of the Code of
25 Civil Procedure, those persons may be made defendants to the
26 action in the same manner and with the same effect as
27 provided in the Code of Civil Procedure. The defendant or
28 defendants shall be given notice of the pendency of the
29 action by publication as provided in the Code of Civil
30 Procedure.

31 (d) The court shall appoint a guardian ad litem for any
32 party to the proceeding who is a ward and is not represented
33 by a guardian.

34 (e) If it appears that any person not in being, upon

1 coming into being, is or may become or may claim to be
2 entitled to any interest in the property sought to be leased,
3 the court shall appoint a guardian ad litem to appear for and
4 represent the interest in the proceeding and to defend the
5 proceeding on behalf of the person not in being, and any
6 judgment or order rendered in the proceeding is as effectual
7 for all purposes as though the person were in being and were
8 a party to the proceeding.

9 (f) The court shall take evidence and hear testimony as
10 to the matters set forth in the petition. The court shall
11 determine the prevailing terms of similar coal leases
12 obtained in the vicinity of the lands described in the
13 petition, including, but not limited to, length of primary
14 term, bonus moneys, delay rentals, royalty rates, and other
15 forms of lease payments. If, upon taking evidence and
16 hearing testimony, it appears that the material allegations
17 of the petition are true and that there has been compliance
18 with the notice provisions of this Act, the court shall enter
19 an order determining the interest of each defendant in the
20 coal sought to be leased. The court shall also appoint a
21 trustee for the purpose of executing in favor of the
22 plaintiff or plaintiffs a coal lease covering the interest of
23 the defendant or defendants. The judgment appointing the
24 trustee and authorizing the execution of the lease shall
25 specify the minimum terms which may be accepted by the
26 trustee. Those terms shall be substantially consistent with
27 the terms of other similar coal leases obtained in the
28 vicinity as determined by the court. The terms of the coal
29 lease shall also be substantially consistent with the terms
30 of other existing leases, if any, covering the remaining coal
31 interests in the lands described in the petition. The lands
32 to be covered by the coal lease shall be contiguous. To the
33 extent that any of the lands described in the petition are
34 not contiguous to other lands in the petition, those lands

1 shall be the subject of separate coal leases. The court
2 shall determine a reasonable fee to be paid to the trustee
3 and that fee, together with the reasonable attorney's fees
4 and costs of the proceeding incurred by the trustee, shall be
5 paid by the plaintiff or plaintiffs.

6 (g) The plaintiff or plaintiffs shall forthwith furnish
7 the court with a report of proceedings of the evidence
8 received and testimony taken at the hearing on the petition,
9 and the report of proceedings shall be filed and made a part
10 of the case record.

11 (h) In all suits under this Act, the court may
12 investigate and determine all questions of conflicting or
13 controverted titles, remove clouds from the title to the
14 coal, and establish and confirm the title to the coal or the
15 right to mine and remove coal from any of the lands.

16 (i) An action filed under this Act may be joined with an
17 action under the Severed Mineral Interest Act.

18 Section 35. Coal leases; report by trustee. The trustee
19 shall enter into negotiations with the plaintiff or
20 plaintiffs and shall execute a coal lease in favor of the
21 plaintiff or plaintiffs covering the interest of the
22 defendant or defendants. The terms of the coal lease shall
23 be in accordance with the findings and judgment of the court.
24 The trustee shall forthwith prepare and file a report of sale
25 of the coal lease stating the terms of the lease and the
26 payments received for the lease and give notice to all
27 parties appearing of record. If the court finds that the
28 sale was in accordance with its judgment, the sale shall be
29 confirmed by court order and the court shall order the trust
30 terminated and the trustee and his or her bond discharged.

31 Section 40. Payment. All moneys due to the defendant or
32 defendants under the lease executed by the trustee shall be

1 paid by the plaintiff or plaintiffs directly to the defendant
2 or defendants.

3 Section 45. Binding effect of lease. The sale of and
4 execution of any coal lease under this Act is binding in all
5 respects as to all of the interest in the coal and the right
6 to mine and remove the coal owned by the defendant or
7 defendants to the action in the same manner as if the
8 defendant or defendants had personally signed and delivered
9 the lease. The lease shall be binding upon the heirs,
10 legatees, personal representatives, successors, and assigns
11 of the defendant or defendants.

12 Section 50. Incapacity of trustee; subsequent
13 proceedings.

14 (a) In the event of the death or resignation of the
15 trustee or the refusal or inability of the trustee to act,
16 the court, upon its own motion or upon the motion of the
17 plaintiff or plaintiffs, shall appoint a successor trustee.

18 (b) After the entry of the initial judgment authorizing
19 a lease, all subsequent proceedings pertaining to the lands
20 and the coal interest involved in the initial litigation,
21 including subsequent leasing proceedings or proceedings by
22 the trustee requesting authority to execute and deliver
23 additional documents pertaining to a coal lease, shall be
24 commenced and prosecuted in the same case as the proceedings
25 for the initial lease. The acting trustee at the time of any
26 subsequent proceedings shall act as the trustee in those
27 proceedings. The court shall retain continuing authority
28 and jurisdiction to conduct the subsequent proceedings.

29 Section 55. Costs. All court costs incident to the
30 proceedings authorized under this Act shall be paid by the
31 plaintiff or plaintiffs.

1 Section 60. Construction. This Act shall be liberally
2 construed so that any lease issued under this Act conveys
3 merchantable title.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.