

“then, upon giving notice” for “Then, upon giving notice” in concluding provisions.

Subsec. (e). Pub. L. 101-508, § 6012(d)(6), substituted “paragraph (1) of subsection (c)” for “paragraph (1), of this subsection”.

Subsec. (g)(2). Pub. L. 101-508, § 6012(d)(7), substituted “use or” for “use of” before “disposition”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Oct. 1, 1991, see section 6014 of Pub. L. 101-508 set out as a note under section 1231 of this title.

**§ 1238. Liens**

**(a) Filing of statement and appraisal**

Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the Secretary or the State, pursuant to an approved State program, shall itemize the moneys so expended and may file a statement thereof in the office of the county in which the land lies which has the responsibility under local law for the recording of judgments against land, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended shall result in a significant increase in property value. Such statement shall constitute a lien upon the said land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this subsection, who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.

**(b) Petition**

The landowner may proceed as provided by local law to petition within sixty days of the filing of the lien, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement herein provided. Any party aggrieved by the decision may appeal as provided by local law.

**(c) Recordation**

The lien provided in this section shall be entered in the county office in which the land lies and which has responsibility under local law for the recording of judgments against land. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land.

(Pub. L. 95-87, title IV, § 408, Aug. 3, 1977, 91 Stat. 465; Pub. L. 109-432, div. C, title II, § 205, Dec. 20, 2006, 120 Stat. 3016.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-432 struck out “who owned the surface prior to May 2, 1977, and” after “this subsection,” in last sentence.

**§ 1239. Filling voids and sealing tunnels**

**(a) Congressional declaration of hazardous conditions**

The Congress declares that voids, and open and abandoned tunnels, shafts, and entryways resulting from any previous mining operation, constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operation may degrade the environment. The Secretary, at the request of the Governor of any State, or the the<sup>1</sup> governing body of an Indian tribe, is authorized to fill such voids, seal such abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or surface mines which the Secretary determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment. State regulatory authorities are authorized to carry out such work pursuant to an approved abandoned mine reclamation program.

**(b) Limitation on funds**

Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be allocated to the respective States or Indian tribes under the provisions of paragraphs (1) and (5) of section 1232(g) of this title.

**(c) Limitation on expenditures**

(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 1233(a)(1) of this title, except that for the purposes of this section the reference to coal in section 1233(a)(1) of this title shall not apply.

(2) The provisions of section 1234 of this title shall apply to this section, with the exception that such mined lands need not have been mined for coal.

(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 1240a(a) of this title.

**(d) Disposal of mine wastes**

In those instances where mine waste piles are being reworked for conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

**(e) Land acquisition**

The Secretary may acquire by purchase, donation, easement, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

(Pub. L. 95-87, title IV, § 409, Aug. 3, 1977, 91 Stat. 465; Pub. L. 101-508, title VI, § 6009, Nov. 5, 1990, 104 Stat. 1388-296.)

<sup>1</sup> So in original.