

**§ 77. Alabama coal lands; agricultural entry**

Unreserved public lands containing coal deposits in the State of Alabama which on April 23, 1912, were being withheld from homestead entry under the provisions of section 171 of this title, may be entered under the homestead laws of the United States subject to the provisions, terms, conditions, and limitations prescribed in sections 83 to 85 of this title.

(Apr. 23, 1912, ch. 87, 37 Stat. 90.)

**SUBCHAPTER II—COAL LAND ENTRIES UNDER NONMINERAL LAND LAWS WITH RESERVATION OF COAL TO UNITED STATES**

**§ 81. Rights of entrymen of lands subsequently classified as coal lands; disposal of coal deposits**

Any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction. The owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit. Nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector, or entryman who has made or shall make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

(Mar. 3, 1909, ch. 270, 35 Stat. 844.)

**PROTECTION OF SANCTITY OF CONTRACTS AND LEASES OF SURFACE PATENT HOLDERS WITH RESPECT TO COALBED METHANE GAS**

Pub. L. 105-367, § 1, Nov. 10, 1998, 112 Stat. 3313, provided that:

“(a) IN GENERAL.—Subject to subsection (b), the United States shall recognize as not infringing upon any ownership rights of the United States to coalbed methane any—

“(1) contract or lease covering any land that was conveyed by the United States under the Act entitled ‘An Act for the protection of surface rights of entrymen’, approved March 3, 1909 (30 U.S.C. 81), or the Act

entitled ‘An Act to provide for agricultural entries on coal lands’, approved June 22, 1910 (30 U.S.C. 83 et seq.), that was—

“(A) entered into by a person who has title to said land derived under said Acts, and

“(B) that conveys rights to explore for, extract, and sell coalbed methane from said land; or

“(2) coalbed methane production from the lands described in subsection (a)(1) by a person who has title to said land and who, on or before the date of enactment of this Act [Nov. 10, 1998], has filed an application with the State oil and gas regulating agency for a permit to drill an oil and gas well to a completion target located in a coal formation.

“(b) APPLICATION.—Subsection (a)—

“(1) shall apply only to a valid contract or lease described in subsection (a) that is in effect on the date of enactment of this Act;

“(2) shall not otherwise change the terms or conditions of, or affect the rights or obligations of any person under such a contract or lease;

“(3) shall apply only to land with respect to which the United States is the owner of coal reserved to the United States in a patent issued under the Act of March 3, 1909 (30 U.S.C. 81), or the Act of June 22, 1910 (30 U.S.C. 83 et seq.), the position of the United States as the owner of the coal not having passed to a third party by deed, patent or other conveyance by the United States;

“(4) shall not apply to any interest in coal or land conveyed, restored, or transferred by the United States to a federally recognized Indian tribe, including any conveyance, restoration, or transfer made pursuant to the Indian Reorganization Act, June 18, 1934 (c. 576, 48 Stat. 984, as amended) [25 U.S.C. 5101 et seq.]; the Act of June 28, 1938 (c. 776, 52 Stat. 1209 as implemented by the order of September 14, 1938, 3 Fed. Reg. 1425); and including the area described in section 3 of Public Law 98-290 [former 25 U.S.C. 668 note]; or any executive order;

“(5) shall not be construed to constitute a waiver of any rights of the United States with respect to coalbed methane production that is not subject to subsection (a); and

“(6) shall not limit the right of any person who entered into a contract or lease before the date of enactment of this Act [Nov. 10, 1998], or enters into a contract or lease on or after the date of enactment of this Act, for coal owned by the United States, to mine and remove the coal and to release coalbed methane without liability to any person referred to in subsection (a)(1)(A) or (a)(2).”

Similar provisions were contained in Pub. L. 105-277, div. A, § 101(e) [title III, § 349], Oct. 21, 1998, 112 Stat. 2681-231, 2681-300.

**LANDS IN NORTH PLATTE RECLAMATION PROJECT; MINERAL RIGHTS**

Patents for lands in North Platte Reclamation Project not to contain reservations of minerals in certain cases, see section 125 of this title.

**§ 82. New or supplemental patents, in case of lands subsequently classified as noncoal**

The Secretary of the Interior is authorized and directed in cases where patents for public lands have been issued to entrymen under the provisions of sections 81 and 83 to 85 of this title, reserving to the United States all coal deposits therein, and lands so patented are subsequently classified as noncoal in character, to issue new or supplemental patents without such reservation.

(Apr. 14, 1914, ch. 55, 38 Stat. 335.)

**§ 83. Homestead or desert-land and other entries**

Unreserved public lands of the United States exclusive of Alaska which have been withdrawn

or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection under section 641 of title 43, and to withdrawal under the Act approved June seventeenth, nineteen hundred and two, known as the Reclamation Act, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same. But all homestead entries made hereunder shall be subject to the conditions, as to residence and cultivation, of entries under section 218 of title 43. Those who have initiated nonmineral entries, selections, or locations in good faith, prior to June 22, 1910, on lands withdrawn or classified as coal lands may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in sections 83 to 85 of this title.

(June 22, 1910, ch. 318, § 1, 36 Stat. 583; June 16, 1955, ch. 145, § 1, 69 Stat. 138.)

#### REFERENCES IN TEXT

The Act approved June seventeenth, nineteen hundred and two, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

#### AMENDMENTS

1955—Act June 16, 1955, removed 160-acre limitation on desert entry.

#### ADDITIONAL DESERT-LAND ENTRY

Act June 16, 1955, ch. 145, § 3, 69 Stat. 138, as amended by Pub. L. 85-641, § 2, Aug. 14, 1958, 72 Stat. 596, provided that: "Any person who, prior to June 16, 1955, made a valid desert-land entry on lands subject to such Act of June 22, 1910 [sections 83 to 85 of this title], or of July 17, 1914 [sections 121 to 123 of this title], may, if otherwise qualified, make one additional entry, as a personal privilege, not assignable, upon one or more tracts of desert land subject to the provisions of such Acts, as hereby amended, and section 7 of the Act entitled 'An Act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development to stabilize the livestock industry dependent upon the public range, and for other purposes', approved June 28, 1934, as amended (48 Stat. 1269, 1272; 43 U.S.C. 315f). The additional land entered by any person pursuant to this section shall not, together with his original entry, exceed three hundred and twenty acres, and all the tracts included within the additional entry authorized by this section shall be sufficiently close to each other to be managed satisfactorily as an economic unit, as determined under rules and regulations issued by the Secretary of the Interior. Additional entries authorized by this section shall be subject to all the requirements of the desert-land law."

#### SUPPLEMENTAL PROVISIONS

Section 90 of this title, act Apr. 30, 1912, ch. 99, 37 Stat. 105, supplements this section by making provisions for the selection of coal lands by the several States, and for their sale under the laws providing for the sale of isolated or disconnected tracts of public lands.

#### § 84. Applications for entry

Any person desiring to make entry under the homestead laws or the desert-land law, any

State desiring to make selection under section 641 of title 43, and the Secretary of the Interior in withdrawing under the Reclamation Act lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said Acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of sections 83 to 85 of this title.

(June 22, 1910, ch. 318, § 2, 36 Stat. 584.)

#### REFERENCES IN TEXT

The Reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to chapter 12 (§371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

#### SUPPLEMENTAL PROVISIONS

See note set out under section 83 of this title.

#### § 85. Patents for lands, with reservation of coal; disposal of coal deposits

Upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of sections 83 to 85 of this title, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by sections 83 to 85 of this title, for the purpose of prospecting for coal thereon upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages. The owner under such limited patent shall have the right to mine coal for use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits. Nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands with a view of disproving such classification and securing a patent without reservation.