



## Ohio Revised Code

### Section 1513.18 Reclamation forfeiture fund.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

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(A) All money that becomes the property of the state under division (G) of section 1513.16 of the Revised Code shall be deposited in the reclamation forfeiture fund, which is hereby created in the state treasury. Disbursements from the fund shall be made by the chief of the division of mineral resources management for the purpose of reclaiming areas of land affected by coal mining under a coal mining and reclamation permit issued on or after September 1, 1981, on which an operator has defaulted.

(B) The fund also shall consist of all money from the collection of liens under section 1513.081 of the Revised Code, all money credited to the fund from the fee levied by division (F)(8)(c) of section 1513.16 of the Revised Code, fines collected under division (E) of section 1513.02 and section 1513.99 of the Revised Code, fines collected for a violation of section 2921.31 of the Revised Code that, prior to July 1, 1996, would have been a violation of division (G) of section 1513.17 of the Revised Code as it existed prior to that date, and money collected and credited to it pursuant to section 5749.02 of the Revised Code. Disbursements from the fund shall be made by the chief in accordance with division (D) of this section for the purpose of reclaiming areas that an operator has affected by mining and failed to reclaim under a coal mining and reclamation permit issued under this chapter.

The chief may expend money from the fund to pay necessary administrative costs, including engineering and design services, incurred by the division of mineral resources management in reclaiming these areas. The chief also may expend money from the fund to pay necessary administrative costs of the reclamation forfeiture fund advisory board created in section 1513.182 of the Revised Code as authorized by the board under that section. Expenditures from the fund to pay such administrative costs need not be made under contract.

(C) Except when paying necessary administrative costs authorized by division (B) of this section, expenditures from the fund shall be made under contracts entered into by the chief, with the approval of the director of natural resources, in accordance with procedures established by the chief, by rules



adopted in accordance with section 1513.02 of the Revised Code. The chief may reclaim the land in the same manner as set forth in sections 1513.21 to 1513.24 of the Revised Code. Each contract awarded by the chief shall be awarded to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once and at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after advertising, no bids are received at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will best be served, the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published. The chief, with the approval of the director, may enter into a contract with the landowner, a coal mine operator or surface mine operator mining under a current, valid permit issued under this chapter or Chapter 1514. of the Revised Code, or a contractor hired by the surety or trustee, if the performance security is held in trust, to complete reclamation on land affected by coal mining on which an operator has defaulted, or with a contractor hired by the trust administrator of an alternative financial security that is provided in accordance with division (F)(8) of section 1513.16 of the Revised Code to provide long-term water treatment or a long-term alternative water supply on areas affected by coal mining on which a permittee has defaulted or not fully funded an alternative financial security, without advertising for bids.

(D)(1) The chief shall expend money credited to the reclamation forfeiture fund from the forfeiture of the performance security applicable to an area of land to pay for the cost of completing reclamation to the standards established by this chapter and rules adopted under it.

(2) If the performance security for the area of land was provided under division (C)(1) of section 1513.08 of the Revised Code, the chief shall use the money from the forfeited performance security and any alternative financial security provided under division (F)(8) of section 1513.16 of the Revised Code to complete the reclamation that the operator failed to do under the operator's applicable coal mining and reclamation permit issued under this chapter.

(3) If the performance security for the area of land was provided under division (C)(2) of section



1513.08 of the Revised Code, the chief shall use the money from the forfeited performance security and any alternative financial security provided under division (F)(8) of section 1513.16 of the Revised Code to complete the reclamation that the operator failed to do under the operator's applicable coal mining and reclamation permit issued under this chapter. If the money credited to the reclamation forfeiture fund from the forfeiture of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code and any alternative financial security provided under division (F)(8) of section 1513.16 of the Revised Code is not sufficient to complete the reclamation to the standards established by this chapter and rules adopted under it, the chief shall notify the reclamation forfeiture fund advisory board of the amount of the insufficiency. The chief may expend money credited to the reclamation forfeiture fund under section 5749.02 of the Revised Code or credited to the reclamation forfeiture fund from the fee levied by division (F)(8)(c) of section 1513.16 of the Revised Code to complete the reclamation to the standards established by this chapter and rules adopted under it. Except as provided in division (D)(5) of this section, the chief shall not expend money from the fund in an amount that exceeds the difference between the amount of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code and the estimated cost of reclamation as determined by the chief under divisions (B) and (E) of that section.

(4) Except as provided in division (D)(5) of this section, money from the reclamation forfeiture fund shall not be used for reclamation of land or water resources affected by mine drainage that requires extended water treatment after reclamation is completed under the terms of the permit. In addition, money from the reclamation forfeiture fund shall not be used to supplement the performance security of an applicant or permittee that has provided performance security in accordance with division (C)(1) of section 1513.08 of the Revised Code.

(5) If a permittee relies in part on the reclamation forfeiture fund for alternative financial security under division (F)(8)(c) of section 1513.16 of the Revised Code, money from the reclamation forfeiture fund may be used for reclamation of the land or water resources affected by mine drainage that requires water treatment after reclamation is completed under the terms of the permit or an alternative water supply after reclamation is completed under the terms of the permit in an amount not to exceed the balance of the alternative financial security provided by the reclamation forfeiture fund under that division.

(E) The chief shall keep a detailed accounting of the expenditures from the reclamation forfeiture



fund to complete reclamation of the land or water resources, as applicable, and, upon completion of the reclamation, shall certify the expenditures to the attorney general. Upon the chief's certification of the expenditures from the reclamation forfeiture fund, the attorney general shall bring an action for that amount of money. The operator is liable for that expense in addition to any other liabilities imposed by law. Money so recovered shall be credited to the reclamation forfeiture fund. The chief shall not postpone the reclamation because of any action brought by the attorney general under this division. Prior to completing reclamation, the chief may collect through the attorney general any additional amount that the chief believes will be necessary for reclamation in excess of the forfeited performance security and any alternative financial security amount applicable to the land or water resources that the operator should have, but failed to, reclaim.

(F) Except as otherwise provided in division (H) of this section, if any part of the money in the reclamation forfeiture fund remains in the fund after the chief has caused the area of land to be reclaimed and has paid all the reclamation costs and expenses, the chief may expend those money to complete other reclamation work performed under this section on forfeiture areas affected under a coal mining and reclamation permit issued on or after September 1, 1981.

(G) The chief shall require every contractor performing reclamation work pursuant to this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work as determined by the chief under section 1513.02 of the Revised Code.

(H) All investment earnings of the fund shall be credited to the fund and shall be used only for the reclamation of land for which performance security was provided under division (C)(2) of section 1513.08 of the Revised Code.