§ 23-2715. Financial security for reclamation.

1. Before the department may issue a permit, the applicant, unless exempt, shall furnish financial security to ensure the performance of reclamation as provided in the approved mined land-use plan and naming the state as beneficiary. Financial security shall be in the form of a bond from a corporate surety licensed to do business as such in the state or any other form the department may deem acceptable. Any interest accruing as a result of such security shall be the exclusive property of the permittee.

2. The department shall determine the amount, condition, and terms of the financial security. The amount shall be based upon the estimated cost of reclaiming the affected land, which shall be based on information contained in the permit application and upon such information as an investigation by the department may disclose.

3. The financial security shall remain in full force and effect until the department has approved the reclamation. At the discretion of the department, the permittee may secure the release of that portion of the financial security for affected land on which reclamation has been completed and approved by the department.

4. If the financial security shall for any reason be cancelled, within thirty days after receiving notice thereof, the permittee shall provide a valid replacement under the same conditions as described in this section. Failure to provide a replacement bond within such period may, at the discretion of the commissioner, result in the immediate suspension of the mining permit by the department.

5. If a permit is suspended or revoked, the department may require the permittee to commence reclamation upon thirty days notice.

6. If the permittee fails to commence or to complete the reclamation as required, the department may attach the financial security furnished by the permittee. In any event, the full cost of completing reclamation shall be the personal liability of the permittee and/or the person

engaged in mining and the department, acting by the attorney general, may bring suit to recover all costs to secure the reclamation not covered by the financial security. The materials, machinery, implements and tools of every description which may be found at the mine, or other assets of the permittee and/or the person engaged in mining shall be subject to a lien of the department for the amount expended for reclamation of affected lands and shall not be removed without the written consent of the department. Such lien may be foreclosed by the attorney general in the same manner as a mechanic's lien. Any and all moneys recovered shall be deposited in the environmental regulatory account pursuant to section 72-1009 of this chapter.

7. Political subdivisions, municipalities, the United States and any of its agencies and agencies of the state shall be exempt from the requirements of this section.