

2016 Regular Session

HOUSE BILL NO. 1130

BY REPRESENTATIVES GAROFALO AND LEOPOLD

1 AN ACT

2 To enact R.S. 56:425.1, relative to leasing of water bottoms for oyster cultivation and  
3 harvest; to authorize the state to jointly lease certain water bottoms; to provide for  
4 the terms and conditions of such joint leases; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 56:425.1 is hereby enacted to read as follows:

7 §425.1. Joint leasing of water bottoms for oyster cultivation and harvest

8 A. In an effort to allocate competing and dual claims to the ownership of  
9 water bottoms in the best interest of all parties, the Department of Wildlife and  
10 Fisheries is hereby authorized to enter into an agreement with a private claimant  
11 whereby certain water bottoms may, in cooperation between the state and the private  
12 claimant, be leased to a third party for the cultivation and harvest of oysters. Any  
13 such agreement shall not in any way be interpreted to indicate or determine  
14 ownership of the water bottom nor shall any such agreement be interpreted to  
15 allocate or designate ownership of mineral rights beneath the water bottom. The  
16 department may promulgate under the Administrative Procedure Act the processes  
17 by which such agreements shall be negotiated and administered.

18 B. Any such agreement may originate with either the department or the  
19 private claimant and any annual rental payments required by R.S. 56:428(C) shall be  
20 made to the department as provided by R.S. 56:428(C). Except for the requirements  
21 of R.S. 56:425(A) for determination of state ownership, the lease shall be subject to  
22 the provisions of Subpart D of Part VII of Chapter 1 of Title 56 of the Louisiana  
23 Revised Statutes of 1950 in addition to any other conditions of the agreement  
24 between the state and the private claimant.

1           C. The joint agreement between the state and the private claimant shall  
2           remain in effect throughout the term of any lease issued subject to the agreement or  
3           until ownership of the water bottom has been determined by final judgment of the  
4           court. Any lease subject to the joint agreement shall terminate at the time a court has  
5           issued a final determination of ownership of the water bottom.

6           D. Beginning July 1, 2016, and continuing until the final implementation of  
7           Phase Three of Section 2 of the Act which originated as House Bill No. 902 of the  
8           2016 Regular Session of the Legislature, oysters found on a vessel owned and  
9           operated by the holder of a private oyster lease executed and properly recorded prior  
10          to February 1, 2016, or operated by an agent or employee of such private oyster  
11          leaseholder shall be presumed to have been legally harvested from the leaseholder's  
12          private oyster lease. In order to document the legality of the harvest of oysters from  
13          the private lease, a certified copy of the lease as filed in the public records of the  
14          parish in which the lease is located shall be carried on each vessel used to harvest  
15          oysters from the private lease and shall be available for examination by  
16          representatives of the department.

17          E. In order to preserve private contract rights and to protect existing  
18          investments, the department shall recognize as valid a private oyster lease in effect  
19          and properly recorded as of February 1, 2016, until such time as the processing of  
20          the lease acreage pursuant to the provisions of Phase Three of Section 2 of the Act  
21          which originated as House Bill No. 902 of the 2016 Regular Session of the  
22          Legislature is complete. Such recognition shall not in any way be interpreted to  
23          indicate or determine ownership of the water bottom nor shall any such agreement  
24          be interpreted to allocate or designate ownership of mineral rights beneath the water  
25          bottom.

26          F. For the purposes of this Section, "dual claim" shall refer to a claim to  
27          immovable property for which a private claimant holds title and to which the state  
28          also makes an ownership claim as a sovereign navigable water bottom, but to which  
29          title has not been adjudicated to either party by a final, unappealable judgment of a  
30          court of competent jurisdiction.

1           Section 2. This Act shall become effective on July 1, 2016, if and only if the  
2 provisions of House Bill No. 902 of the 2016 Regular Session are enacted into law.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_