

ACT No. 570

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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____