

SENATE BILL NO. 385

BY SENATOR CHABERT

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AN ACT

To amend and reenact R.S. 13:5107(C) and R.S. 41:14, the introductory paragraph of R.S. 41:51, 51(1), 1001 through 1006, 1008, 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703, 1706(B), 1713(A) and R.S. 50:171(A), relative to the state land office; to correct statutory references that remain from the transfer of the state land office to the division of administration; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5107(C) is hereby amended and reenacted to read as follow:

§5107. Service of citation and process

* * *

C. In all suits in which title to lands or waterbottoms under the jurisdiction of the ~~Department of Natural Resources~~ **state land office** is or may be at issue, and in all possessory actions, boundary disputes, trespass actions, actions involving alleged acquisitive prescription of immovable property, declaratory judgments, injunctions and concursus proceedings involving **such** lands or waterbottoms ~~under the jurisdiction of the Department of Natural Resources~~, citation and service of all pleadings also shall be made on the ~~secretary of the Department of Natural Resources~~ **register of the state land office.** **In all suits in which property rights, mineral rights, or authorities under the jurisdiction of the State Mineral**

1 and Energy Board may also be at issue, citation and service of all
 2 pleadings shall also be made on the secretary of the Department of
 3 Natural Resources.

4 * * *

5 Section 2. R.S. 41:14, the introductory paragraph of R.S. 41:51, 51(1), 1001 through
 6 1006, 1008, 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703, 1706(B), and
 7 1713(A) are hereby amended and reenacted to read as follows:

8 §14. Conveyances of waterbottoms, ownership

9 No grant, sale or conveyance of the lands forming the bottoms of rivers,
 10 streams, bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting
 11 with the Gulf of Mexico within the territory or jurisdiction of the state shall be made
 12 by the ~~secretary of the Department of Natural Resources~~ **register of the state land**
 13 **office** or by any other official or by any subordinate political subdivision, except
 14 pursuant to R.S. 41:1701 through 1714. Any rights accorded by law to the owners
 15 or occupants of lands on the shores of any waters described ~~herein~~ **in this Section**
 16 shall not extend beyond the ordinary low water mark. No one shall own ~~in fee~~
 17 ~~simple~~ any bottoms of lands covering the bottoms of waters described in this Section.

18 * * *

19 §51. Surveys and plats

20 The governor may direct the ~~department of public works~~ **Department of**
 21 **Transportation and Development:**

22 (1) To make, from time to time, surveys of all unsurveyed lands belonging
 23 and that may hereafter belong to this state and to subdivide them into townships,
 24 sections and other proper subdivisions that may be necessary for their identification,
 25 description, entry and sale. In the event the ~~department of public works~~ **Department**
 26 **of Transportation and Development** cannot timely cause a requested survey to be
 27 made, then the register may on his own initiative cause a survey or surveys to be
 28 made of state lands which survey shall be subject to approval by the ~~director of the~~
 29 ~~department of public works~~ **secretary of the Department of Transportation and**
 30 **Development.** The cost of such a survey shall be borne by the register of the state

1 land office.

2 * * *

3 §1001. Application for sale of timber on state lands

4 Any person who desires to purchase any timber located on property under the
5 jurisdiction of the ~~Division of State Lands~~ **state land office**, shall file with ~~secretary~~
6 ~~of the Department of Natural Resources~~ **the register of the state land office**, an
7 application to purchase giving the exact location, section, township and range, and
8 the types of timber he desires to purchase. The applicant shall deposit with the
9 ~~secretary of the Department of Natural Resources~~ **register of the state land office**,
10 the sum of one hundred dollars as evidence of good faith. Should the applicant, at
11 the sale of timber as provided for in this Part, fail to purchase the timber, then the
12 money so deposited may be returned to him; provided that should no one at the sale
13 bid up to the minimum price stipulated in this Part, then the money shall be retained
14 to pay the expenses of the sale.

15 §1002. Information to be secured as to quantity and value of timber

16 On receipt of an application to have timber offered for sale, the ~~secretary of~~
17 ~~the Department of Natural Resources~~ **register of the state land office** shall request
18 the assistant ~~secretary~~ **commissioner** of the ~~Office of Forestry~~ **Department of**
19 **Agriculture and Forestry, office of forestry** to evaluate the current market value
20 and quantity that could be harvested based on sound forestry practices. The ~~secretary~~
21 ~~of the Department of Natural Resources~~ **register of the state land office** may on his
22 own initiative advertise for bids for sale of timber as provided ~~herein~~ **in this Part**.

23 §1003. Advertisement

24 The ~~secretary of the Department of Natural Resources~~ **register of the state**
25 **land office** shall cause to be published an advertisement in the official journal of the
26 parish ~~wherein~~ **where** the land is located setting forth the description of the land on
27 which the timber to be sold is located, the type and quantity of timber, and the time,
28 place, and terms of the sale. The advertisement shall be published for a period of not
29 less than fifteen days and at least once a week during three consecutive weeks.

30 §1004. Place; time; minimum price; ~~proces-verbal~~ **proces verbal**

1 The timber so advertised shall be sold to the highest bidder by the sheriff of
 2 the parish ~~wherein~~ **where** the timber is located, at the time and place mentioned in
 3 the advertisement for the consideration of bids. All bids shall be submitted sealed
 4 and opened publicly by the sheriff. No bid shall be accepted by the sheriff after the
 5 time designated as the time for opening such bids. No bid shall be considered unless
 6 accompanied by a cashier's check, certified check, or bank money order in the exact
 7 amount of the bid submitted and made payable to the sheriff of the parish in which
 8 the sale is conducted. No bid shall be accepted if less than the minimum price
 9 established by the ~~Office of Forestry~~ **Department of Agriculture and Forestry,**
 10 **office of forestry**. The sheriff conducting the sale shall deliver a ~~proces-verbal~~
 11 **proces verbal** of the sale to the successful bidder.

12 §1005. Proceeds

13 A. All monies derived from the sale of timber shall be forwarded to the
 14 ~~Department of Natural Resources~~ **state land office** for deposit in the state treasury
 15 without delay, after the sheriff making the sale has deducted therefrom the expense
 16 of advertising and his commissions for making the sales. The commission shall be
 17 two percent of the amount bid and paid, provided that this commission shall not
 18 exceed one hundred dollars for one day's adjudication.

19 B. The sheriff in forwarding the money shall forward a statement certified
 20 by him as correct, showing the amount of bid, the expenditure for advertising and the
 21 amount withheld by him as commission; he shall at the same time forward to the
 22 ~~secretary of the Department of Natural Resources~~ **register of the state land office**
 23 a duplicate of his proces verbal of sale ~~wherein he shall give~~ **showing** a correct
 24 description of the property sold with the recital of the acts performed by him in
 25 effecting the sale, the amount of the purchase price received, and the amount
 26 forwarded to the ~~Department of Natural Resources~~ **state land office**.

27 §1006. Removal of timber

28 The adjudicatee of the timber sold ~~under~~ **pursuant to** the provisions of this
 29 Part shall have the right of ingress and egress at any time for the purpose of
 30 removing the timber from the land; provided that the time stipulated to cut and

1 remove the timber shall be fixed in the advertisement and in the act of sale by the
 2 ~~secretary of the Department of Natural Resources~~ **register of the state land office**
 3 as well as the type and size of trees to be cut. The term for removal of the timber
 4 shall not exceed one year unless proof is provided to the ~~secretary of Natural~~
 5 ~~Resources~~ **register of the state land office** that the delay would result in
 6 unavoidable hardship. Upon such proof, the ~~secretary~~ **register of the state land**
 7 **office** may grant an extension for up to one year provided consideration totaling ten
 8 percent of the actual amount of the sale is remitted to the ~~Department of Natural~~
 9 ~~Resources~~ **state land office.**

10 * * *

11 §1008. Sale of timber on state lands where title in dispute: disposition of proceeds

12 Should the ~~Department of Natural Resources~~ **state land office** advertise and
 13 sell timber on state lands, the title to which is in dispute, a provision may be made
 14 that the consideration to be paid the state by the adjudicatee of the timber sold ~~under~~
 15 **pursuant to** the provisions of this Part, shall be deposited in escrow with the
 16 ~~Department of Natural Resources~~ **state land office**, to be held by that department
 17 pending the final determination of the validity of the title to the land or until the
 18 ~~Department of Natural Resources~~ **state land office** and the grantee otherwise agree
 19 the payment should be made or released as provided for in the agreement.

20 §1009. Cutting or sale, or both, of cypress timber on stateowned water bottoms;
 21 prohibition

22 Notwithstanding any other provision of law, particularly R.S. 41:1001
 23 through R.S. 41:1008, the cutting or sale, or both, of standing cypress timber located
 24 on any water bottom owned by the state of Louisiana is hereby prohibited except in
 25 the exercise of rights under a state lease, right-of-way, or permit. However, the
 26 ~~secretary of the Department of Natural Resources~~ **register of the state land office**
 27 may, at his discretion, permit the selective cutting of such timber.

28 * * *

29 §1042. Information to be secured as to quantity and value of timber

30 On receipt of an application to have timber offered for sale, the secretary of

1 the levee board shall request the assistant ~~secretary of the Office of Forestry of the~~
 2 ~~Department of Natural Resources~~ **commissioner of the Department of Agriculture**
 3 **and Forestry, office of forestry** to evaluate the current market value and quantity
 4 that could be harvested based on sound forestry practices. The levee board may on
 5 its own initiative advertise for bids for sale of timber as provided **herein in this Part.**

6 * * *

7 §1044. Place; time; minimum price; ~~proces-verbal~~ **proces verbal**

8 The timber so advertised shall be sold to the highest bidder by the sheriff of
 9 the parish ~~wherein~~ **where** the timber is located, at the time and place mentioned in
 10 the advertisement for the consideration of bids. All bids shall be submitted sealed
 11 and opened publicly by the sheriff. No bid shall be accepted by the sheriff after the
 12 time designated as the time for opening such bids. No bid shall be considered unless
 13 accompanied by a cashier's check, certified check, or bank money order in the exact
 14 amount of the bid submitted and made payable to the sheriff of the parish in which
 15 the sale is conducted. No bid shall be accepted if less than the minimum price
 16 established by the ~~Office of Forestry~~ **Department of Agriculture and Forestry,**
 17 **office of forestry.** The sheriff conducting the sale shall deliver a ~~proces-verbal~~
 18 **proces verbal** of the sale to the successful bidder.

19 * * *

20 §1082. Information to be secured as to quantity and value of timber

21 On receipt of an application to have timber offered for sale, the secretary of
 22 the board shall request the assistant ~~secretary of the office of forestry of the~~
 23 ~~Department of Natural Resources~~ **commissioner of the Department of Agriculture**
 24 **and Forestry, office of forestry** to evaluate the current market value and quantity
 25 that could be harvested based on sound forestry practices and the goals of the board.
 26 The board may on its own initiative advertise for bids for sale of timber as provided
 27 **herein in this Part.**

28 * * *

29 §1084. Place; time; minimum price; proces verbal

30 The timber so advertised shall be sold to the highest bidder by the sheriff of

1 the parish ~~wherein~~ **where** the timber is located at the time and place mentioned in the
 2 advertisement for the consideration of bids. All bids shall be submitted sealed and
 3 opened publicly by the sheriff. No bids shall be accepted by the sheriff after the time
 4 designated as the time for opening such bids. No bid shall be considered unless
 5 accompanied by a cashier's check, certified check, or bank money order in the exact
 6 amount of the bid submitted and made payable to the sheriff of the parish in which
 7 the sale is conducted. No bid shall be accepted if less than the minimum price
 8 established by the **Department of Agriculture and Forestry**, office of forestry.
 9 The sheriff conducting the sale shall deliver a proces verbal of the sale to the
 10 successful bidder.

11 * * *

12 §1132. Formal agreement to be made

13 Whenever a settlement is amicably arrived at between the owner of the
 14 contiguous and abutting land, and the register of the state land office and is approved
 15 by the attorney general, the governor may enter into a contract with the owner in
 16 keeping with the proces verbal of the agreement of settlement, which shall be
 17 supplied by the owner and the ~~Register of the State Land Office~~ **register of the state**
 18 **land office**. The agreement shall be executed and signed, in quadruplicate and in
 19 notarial form, by the governor, and by the owner, one copy to be filed with the
 20 Department of ~~Public Works~~ **Transportation and Development**, one with the
 21 ~~Register of the State Land Office~~ **register of the state land office**, one copy to be
 22 recorded in the parish in which the land is situated, and one copy to be retained by
 23 the owner.

24 §1133. Submission of differences to commissioners

25 If an amicable agreement cannot be so arrived at, the differences in question
 26 shall be submitted to commissioners who shall be the attorney general and the chief
 27 engineer in the Department of ~~Public Works~~ **Transportation and Development**,
 28 representing the state, two persons named by the land owner and a fifth person who
 29 shall be selected by these first four named commissioners. A proces verbal of the
 30 findings of the commissioners shall be executed in quadruplicate originals, one copy

1 to be filed with the Department of ~~Public Works~~ **Transportation and Development**,
 2 one with the ~~Register of the State Land Office~~ **register of the state land office**, one
 3 copy to be recorded in the parish in which the land is situated, and one copy to be
 4 furnished the owner of the contiguous or abutting land.

5 * * *

6 §1213. Application for lease

7 Any person desiring to lease any land as set forth in this Part shall present to
 8 the lessor a written application, together with a cash deposit of twenty-five dollars,
 9 which shall be returned to the applicant if he makes an unsuccessful bid, after a sum
 10 sufficient to pay the advertising costs has been deducted. The application shall set
 11 forth the name and address of the applicant, a reasonably definite description of the
 12 location and amount of land which the applicant desires to lease, and the purposes
 13 for which the lands are to be leased. Where such purposes include the placement of
 14 structures, obstacles, fill, or any other materials upon state lands, the application
 15 must be accompanied by legible copies of maps, plans, specifications, and such other
 16 information or data as may be required by the ~~secretary of the Department of Natural~~
 17 ~~Resources~~ **register of the state land office**. The applicant shall ask that the
 18 application be registered; and that the land described ~~therein~~ **in the application** be
 19 leased to him ~~under~~ **pursuant to** the provision of this Part. The lessor shall register
 20 the application and shall order an inquiry to determine whether the lands applied for
 21 are leaseable for such purposes.

22 * * *

23 §1701. Declaration of policy; public trust

24 The beds and bottoms of all navigable waters and the banks or shores of bays,
 25 arms of the sea, the Gulf of Mexico, and navigable lakes belong to the state of
 26 Louisiana, and the policy of this state is hereby declared to be that these lands and
 27 water bottoms, hereinafter referred to as "public lands", shall be protected,
 28 administered, and conserved to best ensure full public navigation, fishery, recreation,
 29 and other interests. Unregulated encroachments upon these properties may result in
 30 injury and interference with the public use and enjoyment and may create hazards

1 to the health, safety, and welfare of the citizens of this state. To provide for the
 2 orderly protection and management of these state-owned properties and serve the
 3 best interests of all citizens, the lands and water bottoms, except those excluded and
 4 exempted and as otherwise provided by this Chapter, or as otherwise provided by
 5 law, shall be under the management of the ~~Department of Natural Resources~~ **division**
 6 **of administration**, hereinafter referred to as the "~~department~~ **division**". The ~~State~~
 7 ~~Land Office~~ **state land office**, hereinafter referred to as the "office", shall be
 8 responsible for the control, permitting, and leasing of encroachments upon public
 9 lands, in accordance with this Chapter and the laws of Louisiana and the United
 10 States.

11 * * *

12 §1703. Permits and licenses for encroachments other than reclamation projects

13 A. Encroachments, other than those provided in ~~Section R.S. 41:~~1702, may
 14 be permitted and licensed by the ~~department~~ **division** under the provisions of this
 15 Chapter.

16 B. ~~As provided herein, the State Land Office~~ **The office**, with the aid of **the**
 17 **division**, the Department of Natural Resources, the Department of Wildlife and
 18 Fisheries, **the** Department of Transportation and Development, and the attorney
 19 general, shall adopt regulations to implement this Chapter, including the granting and
 20 revoking of permits, leases or licenses, processing of applications, establishing fee
 21 schedules, collecting of fees or revenues for all manner of encroachments, and shall
 22 create an overall and comprehensive plan for the orderly development and
 23 preservation of state lands so as to ensure maximum benefit and use, all in
 24 accordance with the law. The office shall maintain a current inventory of state lands
 25 and a depository in which shall be recorded and preserved all records, surveys, plats,
 26 applications, permits, leases, licenses, and other evidence pertaining to the trust
 27 lands, their description, disposition, and encroachments thereon.

28 * * *

29 §1706. Classes of permits

30 * * *

1 maintenance, sharing, and retrieval. The department shall adopt these standards by
2 rules adopted pursuant to the Administrative Procedure Act prior to January 1, 1991.

* * *

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____