Regular Session, 2013

HOUSE BILL NO. 494

## BY REPRESENTATIVE ST. GERMAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

## SALT DOMES: Requires notification of the proximity of property to a salt dome containing solution mining and storage caverns

1	AN ACT
2	To enact R.S. 9:3198(A)(2)(c) and R.S. 30:23.1, relative to salt domes; to require
3	notification of the proximity of property to a salt dome in which there is solution
4	mining and storage activity; provides for certain penalties; and to provide for related
5	matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 9:3198(A)(2)(c) is hereby enacted to read as follows:
8	§3198. Duties of the seller; delivery of property disclosure document; termination
9	of real estate contract; information contained in document and inaccuracies;
10	required disclosure of information relative to homeowners' associations;
11	liability of seller
12	А.
13	* * *
14	(2)
15	* * *
16	(c) Included with the property disclosure documents required by this Section
17	shall be a statement of acknowledgment as to whether or not a cavity created within
18	a salt stock by dissolution with water lies underneath the property and whether or not

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	the purchasing property is within two thousand six hundred and forty feet of a
2	solution mining injection well.
3	* * *
4	Section 2. R.S. 30:23.1 is hereby enacted to read as follows:
5	§23.1. Recordation of notice of solution mined cavern
6	A. The owner of a solution mined cavern shall cause notice of the
7	identification of the location of the solution mined cavern to be recorded in the
8	mortgage and conveyance records of the parish in which the property is located.
9	Such notice shall be made in a form approved by the commissioner and within the
10	time specified by the commissioner. If an owner fails or refuses to record such
11	notice, the commissioner may, if he determines that the public interest requires, and
12	after due notice and an opportunity for a hearing has been given to the owner, cause
13	such notice to be recorded. The clerk of court shall forward to the office of
14	conservation a copy of each notice recorded by an owner in accordance with this
15	Subsection.
16	B.(1) If any person wishes to remove such notice, he shall notify the
17	commissioner prior to requesting the removal from the clerk of court in the parish
18	where the property is located. The request shall specify the facts supporting removal
19	of the notice, including any evidence that the solution mined cavern no longer poses
20	a potential threat to health or the environment. Upon finding that the solution mined
21	cavern no longer poses a potential threat to health or the environment, the
22	commissioner shall approve removal of the notice.
23	(2) If approval for removal is granted by the commissioner, the request may
24	be made by affidavit to the clerk of court for the removal of the notice and it shall
25	be removed. Within ten days after removal, the clerk of court shall send a notice of
26	the removal to the commissioner. If the commissioner objects to the removal of such
27	notice, or fails to make a final determination upon the request within ninety days, the
28	person desiring to have the notice removed may petition the court in the parish where
29	the property is located for removal of the notice and after a contradictory hearing

1	between the owner, the clerk of court, and the commissioner or his designee, the
2	court may grant such relief upon adequate proof by the petitioner that the property
3	no longer contains a solution mined cavern which may pose a potential threat to
4	health or to the environment.
5	C. The failure of an owner to file the required notice may constitute grounds
6	for an action in redhibition under the applicable provisions of Civil Code Articles
7	2520 et seq., unless the purchaser has actual or constructive knowledge that the
8	property has been used for such purposes.
9	D. Any action brought pursuant to the provisions of this Section shall be
10	commenced within one year from the date the purchaser first knows of the existence
11	of the fact which gives rise to the action, but in any event within three years of the
12	date upon which the purchaser acquired his ownership interest in the property.
13	Venue shall be in any parish in which the property or any portion thereof is located.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

## St. Germain

HB No. 494

Abstract: Requires notification of the proximity of property to a salt dome containing solution mining and storage caverns

<u>Present law</u> requires the seller of property to disclose known features about the property for sale. <u>Proposed law</u> includes among those disclosures, a statement as to whether or not a cavity created within salt stock by dissolution with water lies under the property or whether the property is within 2,640 feet of a solution mining injection well.

<u>Proposed law</u> further requires the owner of a solution mined cavern to provide notification of the location of such cavern in the mortgage and conveyance records of the parish where the property is located. If the owner fails to provide such notification, the commissioner may cause such notice to be recorded. Requires the clerk of court to forward a copy of each notice recorded to the office of conservation.

<u>Proposed law</u> provides a process by which a notice may be removed. A person shall notify the commissioner requesting removal with such request specifying the facts supporting removal including evidence that the cavern no longer poses a threat to health or the environment. If the commissioner approves the request, the request may be submitted by affidavit to the clerk of court. The clerk shall notify the commissioner when the notice is removed. If the commissioner objects to the removal or fails to make a determination within 90 days, the person wishing to remove the notice can petition the court in the parish where the property is located.

<u>Proposed law</u> provides that failure of an owner to file the required notice may constitute grounds for an action of redhibition unless the purchaser has actual or constructive knowledge that the property overlays or is in proximity to a solution mined cavern. Provides a period of prescription of one year from the date of knowledge of the fact that gives rise to an action and three years after the purchase of the property, the purchaser shall have no right of action. Provides venue for any action to be in the parish in which the property is located.

(Adds R.S. 9:3198(A)(2)(c) and R.S. 30:23.1)