

2023 Regular Session
HOUSE BILL NO. 230
BY REPRESENTATIVE GREGORY MILLER

ACT No. 5

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 531, 561(A), 925(A)(introductory
3 paragraph) and (C), 927(A)(introductory paragraph) and (B), 963, 1155, 1424(C),
4 and 1702(A)(2) and (3), the heading of Code of Civil Procedure Article 1810, and
5 Code of Civil Procedure Articles 1912 and 3603(A)(introductory paragraph) and (2)
6 and R.S. 40:1231.8(B)(2)(a) and 1237.2(B)(2)(a), to enact Code of Civil Procedure
7 Articles 927(A)(8) and 1702(A)(5), and to repeal Code of Civil Procedure Articles
8 925(A)(6) and 5183(A)(3), relative to civil procedure; to provide for continuous
9 revisions to the Code of Civil Procedure and related provisions of the Revised
10 Statutes; to provide for actions pending in Louisiana courts; to provide with respect
11 to abandonment in trial and appellate courts; to provide for objections raised by
12 declinatory and peremptory exceptions; to provide for unopposed motions; to
13 provide for supplemental pleadings; to provide for privilege logs within the scope
14 of discovery; to provide with respect to notice in default judgment; to provide with
15 respect to the signing of final judgments; to provide with respect to temporary
16 restraining orders; to provide with respect to affidavits of poverty; and to provide for
17 related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Code of Civil Procedure Articles 531, 561(A), 925(A)(introductory
20 paragraph) and (C), 927(A)(introductory paragraph) and (B), 963, 1155, 1424(C), and
21 1702(A)(2) and (3), the heading of Code of Civil Procedure Article 1810, and Code of Civil
22 Procedure Articles 1912 and 3603(A)(introductory paragraph) and (2) are hereby amended
23 and reenacted, and Code of Civil Procedure Articles 927(A)(8) and 1702(A)(5) are hereby
24 enacted to read as follows:

1 Art. 531. ~~Suits~~ Actions pending in Louisiana court or courts

2 When two or more ~~suits~~ actions are pending in a Louisiana court or courts on
3 the same transaction or occurrence, between the same parties in the same capacities,
4 the defendant may have all but the first ~~suit~~ action dismissed by excepting thereto as
5 provided in Article 925. When the defendant does not so except, the plaintiff may
6 continue the prosecution of any of the ~~suits~~ actions, but the first final judgment
7 rendered shall be conclusive of all.

8 Comments - 2023

9 The replacement of "suits" with "actions" does not change the law but is in
10 accordance with the court's ruling in Chumley v. LaCour, 339 So. 3d 766, 768 (La.
11 App. 2 Cir. 2022).

12 * * *

13 Art. 561. Abandonment in trial and appellate court

14 A.(1) An action, ~~except as provided in Subparagraph (2) of this Paragraph,~~
15 is abandoned when the parties fail to take any step in its prosecution or defense in the
16 trial court for a period of three years, unless it is a succession proceeding:

- 17 (a) Which has been opened;
- 18 (b) In which an administrator or executor has been appointed; or
- 19 (c) In which a testament has been probated.

20 ~~(2) If a party whose action is declared or claimed to be abandoned proves~~
21 ~~that the failure to take a step in the prosecution or defense in the trial court or the~~
22 ~~failure to take any step in the prosecution or disposition of an appeal was caused by~~
23 ~~or was a direct result of Hurricane Katrina or Rita, an action originally initiated by~~
24 ~~the filing of a pleading prior to August 26, 2005, which has not previously been~~
25 ~~abandoned in accordance with the provisions of Subparagraph (1) of this Paragraph,~~
26 is abandoned when the parties fail to take any step in its prosecution or defense in the
27 trial court for a period of five years, unless it is a succession proceeding:

- 28 ~~(a) Which has been opened;~~
- 29 ~~(b) In which an administrator or executor has been appointed; or~~
- 30 ~~(c) In which a testament has been probated.~~

1 ~~(3)~~ (2) This provision shall be operative without formal order, but, on ex
2 parte motion of any party or other interested person by affidavit ~~which provides that~~
3 states that no step has been timely taken in the prosecution or defense of the action,
4 the trial court shall enter a formal order of dismissal as of the date of its
5 abandonment. The sheriff shall serve the order in the manner provided in Article
6 1314, and shall execute a return pursuant to Article 1292.

7 ~~(4)~~ (3) A motion to set aside a dismissal may be made only within thirty days
8 of the date of the sheriff's service of the order of dismissal. If the trial court denies
9 a timely motion to set aside the dismissal, the clerk of court shall give notice of the
10 order of denial pursuant to Article 1913(A) and shall file a certificate pursuant to
11 Article 1913(D).

12 ~~(5)~~ (4) An appeal of an order of dismissal may be taken only within sixty
13 days of the date of the sheriff's service of the order of dismissal. An appeal of an
14 order of denial may be taken only within sixty days of the date of the clerk's mailing
15 of the order of denial.

16 ~~(6) The provisions of Subparagraph (2) of this Paragraph shall become null
17 and void on August 26, 2010.~~

18 * * *

19 Art. 925. Objections raised by declinatory exception; waiver

20 A. The objections ~~which~~ that may be raised through the declinatory
21 exception include but are not limited to the following:

22 * * *

23 C. All objections ~~which~~ that may be raised through the declinatory
24 exception, ~~except the court's lack of jurisdiction over the subject matter of the action,~~
25 are waived unless pleaded therein.

26 Comments - 2023

27 The objection of lack of jurisdiction over the subject matter is deleted from
28 the objections raised by declinatory exceptions and has been added as an objection
29 that is raised by preemptory exception under Article 927.

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Art. 927. Objections raised by peremptory exception

2 A. The objections ~~which~~ that may be raised through the peremptory
3 exception include but are not limited to the following:

4 * * *

5 (8) The court's lack of jurisdiction over the subject matter of the action.

6 B. Except as otherwise provided by Articles 1702(D), 4904(D), and 4921(C),
7 the court ~~may~~ shall not supply the objection of prescription, which shall be specially
8 pleaded. The nonjoinder of a party, peremption, res judicata, discharge in
9 bankruptcy, the failure to disclose a cause of action or a right or interest in the
10 plaintiff to institute the suit, or ~~discharge in bankruptcy~~, the court's lack of
11 jurisdiction over the subject matter of the action may be noticed by either the trial or
12 appellate court on its own motion. Once the objection of the lack of subject matter
13 jurisdiction is raised by the parties or noticed by the court on its own motion, the
14 court shall address the objection before ruling on any other matter. If an exception
15 is noticed by the appellate court on its own motion, the exception shall not be
16 adjudicated without assigning the matter for briefing and permitting the parties an
17 opportunity to request oral argument.

18 Comments - 2023

19 The objection of the court's lack of jurisdiction over the subject matter of the
20 action may be raised through a peremptory exception. Paragraph B now mandates
21 that in all cases where multiple objections are raised, the court should rule on the
22 objection of lack of subject matter jurisdiction prior to ruling on any other matters.
23 Under Article 3, a judgment rendered by a court having no jurisdiction over the
24 subject matter of the action or proceeding is void. Paragraph B has been further
25 revised to clarify that if an appellate court raises a peremptory exception on its own
26 motion, the court shall give the parties an opportunity to brief the exception and
27 request oral argument. This provision allows the parties the opportunity to address
28 the merits of a peremptory exception that is raised by the court for the first time at
29 the appellate level. See, e.g., *Thompson v. Winn-Dixie Montgomery, Inc.*, 181 So.
30 3d 656 (La. 2015) ("The court of appeal's failure to give the parties notice of its *sua*
31 *sponte* determination or to provide them with an opportunity to be heard on the issue
32 of operational control was legal error."); *Merrill v. Greyhound Lines, Inc.*, 60 So. 3d
33 600 (La. 2011) ("[W]e find no error in the decision of the court of appeal to review
34 issues not raised by the parties. However, having made the determination to review
35 these issues, the court of appeal should have invited additional briefing from the
36 parties prior to rendering judgment.").

37 * * *

1 Art. 963. Ex parte, ~~and~~ contradictory, and unopposed motions; rule to show cause

2 A. If the order applied for by written motion is one to which the mover is
3 clearly entitled without supporting proof, the court may grant the order ex parte and
4 without hearing the adverse party.

5 B. If the order applied for by written motion is one to which the mover is not
6 clearly entitled, or which requires supporting proof, the motion shall be served on
7 and tried contradictorily with the adverse party.

8 C. The rule to show cause is a contradictory motion.

9 D. An unopposed motion is one to which all affected parties have consented
10 prior to the filing of the motion. The mover shall certify in the motion that the
11 mover has obtained the consent of all affected parties both to the motion and to the
12 accompanying order that is presented to the court. Failure to certify that all affected
13 parties have consented requires the motion to be set for contradictory hearing.

14 Comments - 2023

15 Paragraph D was adapted from Louisiana District Court Rule 9.8(f) to codify
16 the procedure used for unopposed motions. An unopposed motion should be served
17 on all parties under Article 1313(C) by emailing the motion to the email address
18 designated by counsel or the party to ensure that all parties have notice of the
19 proposed unopposed motion and order. Similar to an ex parte motion, an unopposed
20 motion may be granted by the court without hearing from the consenting party.

21 * * *

22 Art. 1155. Supplemental pleadings

23 The court, ~~on motion of a party, upon reasonable notice and upon such terms~~
24 ~~as are just~~ upon written consent of the parties, may permit the mover to file a
25 supplemental petition or answer setting forth items of damage, causes of action or
26 defenses ~~which that~~ that have become exigible since the date of filing the original petition
27 or answer, and ~~which that~~ that are related to or connected with the causes of action or
28 defenses asserted therein. If the parties do not consent, the court may grant leave to
29 file a supplemental petition or answer only upon contradictory motion.

30 Comments - 2023

31 (a) This Article changes procedural law by providing that a party who wishes
32 to file a supplemental pleading must either have the consent of all parties or file a
33 contradictory motion. Previously, a party was permitted to file a supplemental
34 pleading after obtaining leave of court and providing "reasonable notice," the

1 meaning of which was uncertain. The filing of a contradictory motion will guarantee
2 that other parties are afforded an opportunity to object to the filing of a supplemental
3 pleading and will therefore alleviate concerns with respect to what constitutes
4 "reasonable notice."

5 (b) With this change to Article 1155, the practice of filing an "Amending and
6 Supplemental Petition" should be avoided unless the petition contains causes of
7 action that have become exigible since the filing of the original petition. Whereas
8 the filing of an amending petition under Article 1152 requires only leave of court,
9 the filing of a supplemental petition under this Article will require a contradictory
10 hearing if all parties do not consent.

11 * * *

12 Art. 1424. Scope of discovery; trial preparation; materials

13 * * *

14 C. When a party withholds information otherwise discoverable under these
15 rules by claiming that it is privileged or subject to protection as trial preparation
16 material, the party shall make the claim expressly and shall ~~describe~~ prepare and
17 send to the other parties a privilege log that describes the nature of the documents,
18 communications, or things not produced or disclosed in a manner that, without
19 revealing information itself privileged or protected, will enable other parties to assess
20 the applicability of the privilege or protection.

21 Comments - 2023

22 This Article was amended in accordance with the court's opinion in *Cloud v.*
23 *Gibson*, 344 So. 3d 253, 258 (La. App. 4 Cir. 2022) wherein the Fourth Circuit held
24 that a privilege log under Paragraph C of this Article is mandatory and not
25 discretionary. "Privilege log" is a generally accepted term that refers to a document
26 that enables other parties to assess the applicability of a privilege or protection upon
27 withheld information otherwise discoverable under the rules.

28 * * *

29 Art. 1702. Default judgment

30 A.

31 * * *

32 (2) If a party who fails to answer has made an appearance of record in the
33 case, notice that the plaintiff intends to obtain a default judgment shall be sent by
34 certified mail or actually delivered to counsel of record for the party, or if there is no
35 counsel of record, to the party, at least seven days before a default judgment may be
36 rendered.

1 (3) If an attorney for a party who fails to answer has contacted the plaintiff
2 or the plaintiff's attorney in writing concerning the action after it has been filed,
3 notice that the plaintiff intends to obtain a default judgment shall be sent by certified
4 mail or actually delivered to the party's attorney at least seven days before a default
5 judgment may be rendered.

6 * * *

7 (5) No default judgment shall be rendered against a defendant when notice
8 is required under Subparagraph (2) or (3) of this Paragraph unless proof of the
9 required notice is made in the manner provided by R.S. 13:3205.

10 * * *

11 Comments - 2023

12 (a) In addition to certified mail, this Article now includes actual delivery as
13 certified notice of intent to obtain a default judgment.

14 (b) This Article is not intended to change Article 4904 relative to default
15 judgment in parish and city courts.

16 * * *

17 Art. 1810. Directed verdicts; ~~motion to dismiss at close of plaintiff's evidence~~

18 * * *

19 Art. 1912. Final judgment; ~~multi-parish districts, signing in any parish in the state~~

20 A final judgment may be signed ~~in any parish within the state~~ in any place
21 where the judge is physically located and shall be sent to the clerk of the ~~parish court~~
22 in which the case is pending.

23 Comments - 2023

24 This Article was amended to utilize identical language and comport with
25 Article 194 as amended by Acts 2021, No. 68, §1, effective January 1, 2022.

26 * * *

27 Art. 3603. Temporary restraining order; affidavit or affirmation of irreparable injury
28 and notification efforts

29 A. A temporary restraining order shall be granted without notice from the
30 court when all of the following occur:

31 * * *

1 (2) The applicant's attorney certifies to the court in writing the efforts ~~which~~
2 that have been made to give ~~the~~ notice or the reasons supporting ~~his~~ the applicant's
3 claim that notice should not be required.

4 * * *

5 Comments - 2023

6 This Article was amended to clarify that a temporary restraining order may
7 be granted without notice only if the applicant or his attorney has certified in writing
8 that notice has been given to the adverse party or his attorney, that efforts were made
9 to give notice, or that reason exists as to why notice should not be required. See
10 Comments-1985.

11 * * *

12 Section 2. R.S. 40:1231.8(B)(2)(a) and 1237.2(B)(2)(a) are hereby amended and
13 reenacted to read as follows:

14 §1231.8. Medical review panel

15 * * *

16 B.

17 * * *

18 (2)(a) A health care provider, against whom a claim has been filed under the
19 provisions of this Part, may raise peremptory exceptions of no right of action
20 pursuant to Code of Civil Procedure Article 927~~(6)~~ or any exception or defenses
21 available pursuant to R.S. 9:5628 in a court of competent jurisdiction and proper
22 venue at any time without need for completion of the review process by the medical
23 review panel.

24 * * *

25 §1237.2. State medical review panel

26 * * *

27 B.

28 * * *

29 (2)(a) The state or a person, against whom a claim has been filed under the
30 provisions of this Part, may raise peremptory exceptions of no right of action
31 pursuant to Code of Civil Procedure Article 927~~(6)~~ or any exceptions or defenses
32 available pursuant to R.S. 9:5628 in a court of competent jurisdiction and proper

1 venue at any time without need for completion of the review process by the state
2 medical review panel.

3 * * *

4 Section 3. Code of Civil Procedure Articles 925(A)(6) and 5183(A)(3) are hereby
5 repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 7

2023 Regular Session

HOUSE BILL NO. 7

BY REPRESENTATIVE MUSCARELLO

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AN ACT

To enact Code of Civil Procedure Article 1702(F)(3), relative to confirmation of default judgments; to provide relative to divorce; to provide relative to notice to a defendant; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 1702(F)(3) is hereby enacted to read as follows:

Art. 1702. Default judgment

* * *

F.

* * *

(3) The notice requirements contained in Paragraph A of this Article shall not apply when the plaintiff intends to obtain a default judgment for a demand for divorce as provided by this Paragraph.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 55

BY SENATOR LUNEAU

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

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AN ACT

To amend and reenact Code of Civil Procedure Article 3191(B), relative to probate procedure; to provide relative to functions, powers, and duties of a succession representative; to provide with respect to procuration or mandate; to provide relative to appointment of an agent; to provide with respect to authority of an agent appointed by a succession representative; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 3191(B) is hereby amended and reenacted to read as follows:

Art. 3191. General duties; appointment of agent

* * *

B. A nonresident succession representative may execute a ~~power of attorney~~ **procuration or mandate** appointing a resident of the state to represent him in all acts of his administration. A resident succession representative who will be absent from the state temporarily similarly may appoint an agent to act for him during his absence. **Additionally, a succession representative may appoint an agent to alienate, acquire, lease, or encumber specifically described property on specific terms. A procuration or mandate granted for this purpose may either recite the specific terms of the transaction or state that the succession representative has approved the terms of the transaction.** ~~In either case, the power of attorney~~ **The procuration or mandate** appointing the agent shall be filed in the record of the succession proceeding **and shall not need court approval.**

* * *

Section 2. This Act shall become effective on July 1, 2023; if vetoed by the governor

1 and subsequently approved by the legislature, this Act shall become effective on the day
2 following such approval by the legislature or July 1, 2023, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 103

BY SENATOR LAMBERT

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

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AN ACT

To amend and reenact R.S. 3:304(B), 1221(C), 3302(2), 3366(C), and 3712(E) and (H), R.S. 9:1152(B), and 2800.14, R.S. 13:5107(C), the introductory paragraph of R.S. 17:202(A)(2) and 218(2), the introductory paragraph of R.S. 30:4(D), the introductory paragraph of 4(D)(1), 30:4(D)(1)(d), (2), and (3)(a)(ii), (G), (M)(6)(b), (N)(1) and (5), the introductory paragraph of 4.1(B), 21.2, 23(D)(1), 25(A)(2), (3), and (7), 26(A), 29(A), (B)(1), and (C)(3)(b)(i), 73(1), 81(B), 82(1), (4), and (13), 83(A), (B)(1), (F)(5), and (H), 86(E)(1) and (7), 89.1, 91(B)(2)(c), 95(D), 101.2(A), 101.3(2), (4), and (7), 101.4(A), 101.13(B)(3) and (C)(4), 121(A) and (C), 124(A), 126(B)(3), 132, 135, 136(A)(1)(a), 136.3(D), 142(E)(1)(a), 143(C), (D)(1), (2), (4), and (6), (E), and (F), the introductory paragraph of 144(A), 150(A), (B)(7), (D), (F)(2), and (H), 206, 209(4)(b), 212(A), 215(A), 216(C)(2), 401, 503(1), the introductory paragraph of 546(A), 702(1), 723(G), 731(1), 904(5) and (20), 905(A) and (B)(9), 905.1(A), 953(C), 962(2), 963(A), 1103(7), 1105(B), 1109(F), the introductory paragraph of 1152(A), the introductory paragraph of 1154(A), the introductory paragraph of 1154(A)(9)(a), 1202(8), 1354(6), 1401(B) and (C), 1402(B) and (D), 2004(12)(a), 2011(D)(20), 2015.1(L), 2035(B)(2), 2074(C) and (E), 2248(C)(1), 2397, 2458(A)(4), 2459(A) and (D), 2460(A)(14), 2469(E), 2495, and 2575(D), R.S. 31:149(A), R.S. 32:1511 and 1513.1(A), R.S. 33:1236(56), 1236.25(C), 1236.27, 1419.1(C), the introductory paragraph of 1419.2(1), 1419.2(6), 1419.3, 1419.4(A) and (D)(1), 1419.5(1) and (4), 1419.6(A), (B), (D), and (E),

1 4064.4(E) and (J), 4065.3(E) and (I), 4522, 4523, 4524, 4526, and 4546.21(B), R.S.
2 34:3116(B) and 3304(B), R.S. 36:4(A)(7), 8.1(C)(11), 351(A), (B), and (C)(1), 353,
3 354(A)(13), (B)(1)(b), (4), (6), and (8), 356(A) and (B), 357(A), 358(A), the
4 introductory paragraph of 359(A), the introductory paragraph of 359(B), 359(B)(1)
5 and (2), and (C), 629(J)(2) through (8), and 957(A), R.S. 37:711.4(E), 1377(K)(1),
6 and 3151(1), R.S. 38:25(A), 327(F), 3087.134(E)(5), 3092(7), 3097.3(B), the
7 heading of 3098.2, the introductory paragraph of 3098.6(A), and 3098.6(A)(2), R.S.
8 39:99.29(A), 253(A)(2), 2007(D)(1), and 2177(D), R.S. 40:1730.22(F),
9 1730.28.4(B)(1), 1892, 1893, and 1894, R.S. 41:642(A)(2)(b) and (B), 1602(B)(1),
10 1701.1(C) and (D), 1702(D)(1) and (2)(a)(i), the introductory paragraph of (ii), (H),
11 and (I), 1703(B), 1712(D), 1731, 1732(A), 1733(B) and (C), and the introductory
12 paragraph of 1734(A), R.S. 42:1113(D)(1)(a)(ii)(hh) and (6)(f), 1124(A)(2)(f), and
13 1266(C)(1)(f), R.S. 44:4(10), R.S. 47:301(10)(gg) and (18)(p), 633(7)(c)(iii)(bb),
14 (iv)(aa), (bb), and (cc), and (d), (9)(d)(i) and (iii), the introductory paragraph of
15 633.4(B)(1), 633.5(A), the introductory paragraph of 648.2(1), 648.3, 1508(B)(9),
16 1515.2, 1989(C)(2)(a)(vi)(cc), and 6035(D), R.S. 48:224(C), R.S.
17 49:74(A)(5)(b)(i)(aa)(VI), 191(12)(c), 214.5.1(B)(2), 214.6.2(C)(1) and (D)(8),
18 214.8.6(B)(4), 214.23(12), 214.24(D), 214.25(C), 214.26(A)(1), 214.31(B),
19 214.33(B)(6), 214.36(J)(1)(a), 259(A) and (D), 330(A)(4), 966(B)(11), and
20 1053(C)(11), R.S. 51:1601(H), 1602(3), (5), (8), (13), and (15), the introductory
21 paragraph of 1603, 1603(7)(c), and 1605(B)(12) through (15), R.S. 56:4,
22 301.10(E)(2) and (3), 421(B)(3) and (E)(4), 432.1(C)(2), 494(E)(2) and (3),
23 700.11(4) and (7), 700.13(A), 796(B)(1)(p), 1431(E), 1808(A), 1932(A)(6),
24 1933(A)(1)(g), and 2011(E), and the introductory paragraph of Code of Civil
25 Procedure Art. 1552 and 1563(A)(2) and (B), relative to the renaming of the
26 Department of Natural Resources; to provide for an effective date; and to provide for
27 related matters.

28 Be it enacted by the Legislature of Louisiana:

29 Section 1. R.S. 3:304(B), 1221(C), 3302(2), 3366(C), and 3712(E) and (H) are
30 hereby amended and reenacted to read as follows:

1 §304. Master farmer certification

2 * * *

3 B. The commissioner may adopt rules and regulations setting out the
4 requirements for obtaining a certification. The curriculum shall be established by the
5 Louisiana State University AgCenter. The Louisiana State University AgCenter may
6 consult with other agencies and organizations as needed, including but not limited
7 to the Louisiana Department of Environmental Quality, Louisiana Department of
8 Energy and Natural Resources, Louisiana Farm Bureau, the United States
9 Department of Agriculture, Natural Resources and Conservation Service, and the
10 State Soil and Water Conservation Commission. The curriculum shall include but is
11 not limited to the instruction on environmental issues in agriculture, nonpoint source
12 pollution, best management and conservation practices, soil and water quality
13 monitoring demonstrations, and development and implementation of an individual
14 comprehensive soil and water conservation plan.

15 * * *

16 §1221. Carbon sequestration; emissions reduction of carbon dioxide and other
17 greenhouse gases

18 * * *

19 C. The provisions of this Section do not affect the authority of the Louisiana
20 Department of Energy and Natural Resources or benefits, credits, or offsets derived
21 from projects approved and undertaken by the Coastal Protection and Restoration
22 Authority in the coastal area.

23 * * *

24 §3302. Definitions

25 As used in this Part, the following words shall have the following meanings
26 ascribed to them:

27 * * *

28 (2) "Appropriate governmental agency" means any federal, state, or local
29 agency which has jurisdiction over or expertise in the subject matter affected by this
30 Part, and includes but is not limited to, the United States Department of Agriculture,

1 the United States Environmental Protection Agency, the United States Geological
2 Survey, the Department of Environmental Quality, the Louisiana Department of
3 Health, the Department of **Energy and** Natural Resources, the Department of
4 Wildlife and Fisheries, and the Department of Transportation and Development.

5 * * *

6 §3366. Administrative rules

7 * * *

8 C. Persons engaged in structural pest control work shall be governed
9 exclusively by the rules and regulations adopted by the commission. If the rules and
10 regulations adopted by the commission conflict with any rules or regulations adopted
11 by any other agency, including but not limited to the Department of **Energy and**
12 Natural Resources, the Department of Environmental Quality, or the Department of
13 Public Safety and Corrections the rules and regulations adopted by the commission
14 shall prevail.

15 * * *

16 §3712. Purchase of feedstock by operators of renewable fuel manufacturing
17 facilities; notice requirements; annual report

18 * * *

19 E. To improve dissemination of information regarding supply needs of
20 renewable fuel manufacturing facilities operating in Louisiana and to assure that
21 Louisiana farmers are adequately and timely informed about the feedstock needs of
22 these facilities, the operators of all renewable fuel manufacturing facilities shall, at
23 least one hundred eighty days prior to the start of commercial operation of such
24 facilities, provide notice to the commissioner of agriculture and forestry, the
25 secretary of the Department of **Energy and** Natural Resources and the secretary of
26 the Department of Economic Development.

27 * * *

28 H. Each renewable fuels manufacturing facility operating in Louisiana shall
29 provide an annual report to the commissioner of agriculture and forestry, the
30 secretary of the Department of **Energy and** Natural Resources and the secretary of

1 the Department of Economic Development certifying that it has purchased all of the
 2 competitively priced Louisiana feedstock available during its operations. The report
 3 shall also list the production levels for the previous twelve months, the amount and
 4 type of feedstock used to achieve the production levels, the location from where the
 5 feedstock originated, and the steps taken to obtain Louisiana harvested feedstock.
 6 The report shall also itemize the financial benefits the facility has received from the
 7 state, including but not limited to: the use of state grants, state assisted financing,
 8 participation in the Quality Jobs Program, the Enterprise Zone Program and the
 9 10-Year Industrial Exemption Program.

* * *

11 Section 2. R.S. 9:1152(B), and 2800.14 are hereby amended and reenacted to read
 12 as follows:

13 §1152. Grant of mineral servitude on lands acquired by the state from agencies or
 14 political subdivisions by subsidence or erosion

* * *

B. The boundaries of such servitudes shall be fixed as follows:

17 (1) The state agency or political subdivision having an interest therein may
 18 submit to the secretary of the Department of **Energy and** Natural Resources a
 19 certified map or plat of survey prepared by a registered land surveyor showing the
 20 exact extent of the servitude area, along with such other proof of the boundaries
 21 thereof as the secretary may reasonably require. Upon sufficient showing of the
 22 boundaries of the servitude area, the secretary shall indicate his assent thereto on said
 23 plat and on his certificate evidencing the boundaries of such servitude.

24 (2) The office of mineral resources of the Department of **Energy and** Natural
 25 Resources and the agency or political subdivision holding such servitude may fix the
 26 boundaries of such servitudes or otherwise fix their respective interest with respect
 27 to such servitude by written agreement.

28 (3) In the event the boundaries cannot be fixed in either manner provided for
 29 above, then the secretary of the Department of **Energy and** Natural Resources, the
 30 office of mineral resources of the Department of **Energy and** Natural Resources, or

1 the agency or political subdivision holding such servitude may institute an action in
2 the parish where the property is located to fix the boundaries of such servitude in
3 accordance with applicable law.

4 (4) A true and certified copy of any certificates, plats, agreements or
5 judgments fixing the boundaries of such servitudes shall be filed with the secretary
6 of the Department of **Energy and** Natural Resources and shall be recorded in the
7 parish where the affected property is located.

8 * * *

9 §2800.14. Limitation of liability for damages to oyster leases

10 Oil companies, including drilling, exploration, production, pipeline, and
11 marine contractors, and persons performing related services who cause any loss or
12 damage to oyster leases from exploration, excavation, construction, maintenance,
13 remediation, operations, release and response, or events and activities, which include
14 the transportation of materials or equipment to or from existing or proposed drilling
15 sites, well sites, rights of way, or production, storage, and pumping facilities within
16 a designated water route or navigable waters approved by the Department of **Energy**
17 **and** Natural Resources shall only be liable for the diminution in market value of the
18 oyster leases. Diminution in market value of the oyster leases shall be calculated in
19 accordance with the method used by the Louisiana Oyster Lease Damage Evaluation
20 Board. This Section shall have no effect as to judgments rendered by a court of
21 competent jurisdiction prior to August 15, 2004.

22 Section 3. R.S. 13:5107(C) is hereby amended and reenacted to read as follows:

23 §5107. Service of citation and process

24 * * *

25 C. In all suits in which title to lands or waterbottoms under the jurisdiction
26 of the state land office is or may be at issue, and in all possessory actions, boundary
27 disputes, trespass actions, actions involving alleged acquisitive prescription of
28 immovable property, declaratory judgments, injunctions and concursus proceedings
29 involving such lands or waterbottoms, citation and service of all pleadings also shall
30 be made on the register of the state land office. In all suits in which property rights,

1 mineral rights, or authorities under the jurisdiction of the State Mineral and Energy
2 Board may also be at issue, citation and service of all pleadings shall also be made
3 on the secretary of the Department of **Energy and** Natural Resources.

4 * * *

5 Section 4. The introductory paragraph of R.S. 17:202(A)(2) and 218(2) are hereby
6 amended and reenacted to read as follows:

7 §202. Louisiana Environmental Education Commission; creation; membership;
8 duties

9 A.(1) * * *

10 (2) The commission shall consist of the secretary of the Department of
11 Wildlife and Fisheries or his designee, the state superintendent of education or his
12 designee, the secretary of the Department of Environmental Quality or his designee,
13 the secretary of the Department of **Energy and** Natural Resources or his designee,
14 the secretary of the Louisiana Department of Health or his designee, the
15 commissioner of the Department of Agriculture and Forestry or his designee, the
16 chancellor of the Louisiana State University Agricultural Center or his designee, the
17 chancellor of Southern University Agricultural and Mechanical College or his
18 designee, the governor's executive assistant for coastal activities or his designee, and
19 the following members appointed by the governor:

20 * * *

21 §218. Professional development

22 In-service teachers should develop the same environmental education
23 competencies specified for pre-service teachers as follows:

24 * * *

25 (2) The Department of **Energy and** Natural Resources, the Department of
26 Environmental Quality, the Department of Wildlife and Fisheries, the Louisiana
27 Department of Health, the office of state parks within the Department of Culture,
28 Recreation and Tourism, the Department of Agriculture and Forestry, and the
29 Department of Education shall develop and publicize environmental education
30 teacher in-service or professional internships related to their mission and shall be

1 encouraged to develop such programs if they do not exist.

2 * * *

3 Section 5. The introductory paragraph of R.S. 30:4(D), the introductory paragraph
4 of 4(D)(1), 30:4(D)(1)(d), (2), and (3)(a)(ii), (G), (M)(6)(b), (N)(1) and (5), the introductory
5 paragraph of 4.1(B), 21.2, 23(D)(1), 25(A)(2), (3), and (7), 26(A), 29(A), (B)(1), and
6 (C)(3)(b)(i), 73(1), 81(B), 82(1), (4), and (13), 83(A), (B)(1), (F)(5), and (H), 86(E)(1) and
7 (7), 89.1, 91(B)(2)(c), 95(D), 101.2(A), 101.3(2), (4), and (7), 101.4(A), 101.13(B)(3) and
8 (C)(4), 121(A) and (C), 124(A), 126(B)(3), 132, 135, 136(A)(1)(a), 136.3(D), 142(E)(1)(a),
9 143(C), (D)(1), (2), (4), and (6), (E), and (F), the introductory paragraph of 144(A), 150(A),
10 (B)(7), (D), (F)(2), and (H), 206, 209(4)(b), 212(A), 215(A), 216(C)(2), 401, 503(1), the
11 introductory paragraph of 546(A), 702(1), 723(G), 731(1), 904(5) and (20), 905(A) and
12 (B)(9), 905.1(A), 953(C), 962(2), 963(A), 1103(7), 1105(B), 1109(F), the introductory
13 paragraph of 1152(A), the introductory paragraph of 1154(A), the introductory paragraph
14 of 1154(A)(9)(a), 1202(8), 1354(6), 1401(B) and (C), 1402(B) and (D), 2004(12)(a),
15 2011(D)(20), 2015.1(L), 2035(B)(2), 2074(C) and (E), 2248(C)(1), 2397, 2458(A)(4),
16 2459(A) and (D), 2460(A)(14), 2469(E), 2495, and 2575(D) are hereby amended and
17 reenacted to read as follows:

18 §4. Jurisdiction, duties, and powers of the assistant secretary; rules and regulations

19 * * *

20 D. The assistant secretary shall make, after notice and public hearing as
21 provided in this Chapter, any reasonable rules, regulations, and orders that are
22 necessary:

23 (1) To require that all pipelines, excluding field transmission, flow, and
24 gathering lines; all wells; and all associated structures, including any fittings, tie-
25 overs, appliances, and equipment, which are constructed on state water bottoms
26 pursuant to the grant of a right-of-way by the secretary of the Department of **Energy**
27 **and** Natural Resources or the issuance of a lease by the State Mineral and Energy
28 Board shall conform to the following provisions:

29 * * *

30 (d) If determined by the governor and the secretary of the Department of

1 the state removal shall not be required. However, the owner shall be required to mark
2 it for the duration of the obstruction according to regulations of the Coast Guard and
3 the assistant secretary.

4 * * *

5 G. The office of conservation of the Department of Energy and Natural
6 Resources through the commissioner, shall implement the provisions of Subsections
7 D, E, and F of this Section as to interstate pipelines insofar as those requirements
8 may be consistent with the regulations for interstate pipelines adopted by the United
9 States Department of Transportation. In such event, the office shall further
10 implement the provisions of Subsections D, E, and F of this Section insofar as those
11 requirements may be consistent with the regulations for interstate pipelines adopted
12 by the United States Department of Energy.

13 * * *

14 M. * * *

15 (6) Permit requirements that include the following:

16 * * *

17 (b) Reimbursement to the state or any political subdivision of the state for
18 reasonable and extraordinary costs incurred in responding to or mitigating a disaster
19 or emergency due to a violation of this Subsection or any rule, regulation, or order
20 promulgated or issued pursuant to this Subsection. Such costs shall be subject to
21 approval by the director of the Governor's Office of Homeland Security and
22 Emergency Preparedness prior to being submitted to the permittee for reimbursement.
23 Such payments shall not be construed as an admission of responsibility or liability
24 for the emergency or disaster. The Department of Energy and Natural Resources,
25 office of conservation, is hereby authorized to adopt rules and regulations in
26 accordance with the Administrative Procedure Act to collect reimbursement under
27 this Section.

28 * * *

29 N.(1) The Cross-Unit Well Study Commission is hereby created within the
30 Department of Energy and Natural Resources, office of conservation. The

1 commission shall study the legal implications of the prescription of nonuse in
2 relation to the drilling of any well located closer than three hundred thirty feet from
3 the property boundary of a drilling unit or lease.

4 * * *

5 (5) The chairman shall hold the first public meeting of the commission on or
6 before September 1, 2014, at the headquarters of the Department of **Energy and**
7 **Natural Resources**, office of conservation. After the first meeting, the commission
8 shall hold monthly public meetings at the headquarters of the Department of **Energy**
9 **and Natural Resources**, office of conservation.

10 * * *

11 §4.1. Underground injection control

12 * * *

13 B. The assistant secretary of the office of conservation of the Department of
14 **Energy and Natural Resources**, hereafter referred to as the "assistant secretary",
15 shall have authority to make, after notice and hearings as provided in this Chapter,
16 any reasonable rules, regulations, and orders that are necessary from time to time in
17 the proper administration and enforcement of this Section including, but not limited
18 to rules, regulations, or orders for the following purposes:

19 * * *

20 §21.2. Bohemia Spillway Cost Recovery

21 Upon the final disposition of each claim filed with the Department of **Energy**
22 **and Natural Resources** pursuant to Act 233 of the 1984 Regular Session, the
23 secretary shall condemn one or more of the parties to the claim to pay the actual cost
24 of administering the claim and may apportion such cost among the parties. The funds
25 received pursuant to this Section shall be deposited immediately into the state
26 treasury.

27 * * *

28 §23. Underground storage of liquid or gaseous hydrocarbons or both, carbon
29 dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble
30 gases not otherwise prohibited by law

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* * *

D.(1) In furtherance of the development of comprehensive energy policy for the state, the secretary of the Department of **Energy and** Natural Resources shall determine the feasibility of initiating projects, by the state or by contract on behalf of the state, for the storage of emergency supplies of state-owned oil and gas, carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gas not otherwise prohibited by law. Such determination shall include consideration of the techniques, costs, quantities of oil and gas, carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gas not otherwise prohibited by law available for such purpose and priorities for allocation in time of emergency.

* * *

§25. Closure of production pits in the wetlands

A.(1) * * *

(2) Each production pit located within the inland tidal waters, lakes bounded by the Gulf of Mexico, and saltwater marshes shall be closed by January 1, 1993. The Department of **Energy and** Natural Resources through the office of conservation shall adopt rules to enforce the provisions of this Section and may issue compliance orders, cease and desist orders, and other such orders as are necessary to enforce the requirements of this Section and the rules of the department.

(3) The exemptions and exceptions for production pits located within the inland tidal waters, lakes bounded by the Gulf of Mexico, and saltwater marshes provided for by the rules of the Department of **Energy and** Natural Resources, office of conservation in Statewide Order No. 29-B, Section XV, Paragraph 2.2(K) and (M) are hereby declared null, void, and without effect. After June 30, 1989, no new production pits shall be constructed within the inland tidal waters, lakes bounded by the Gulf of Mexico, and saltwater marshes.

* * *

(7) No permit or approval from any agency, department, or authority other than the Department of **Energy and** Natural Resources office of conservation shall be required or sought in connection with any activity mandated by, arising out of, or

1 resulting from the requirements of this Section.

2 * * *

3 §26. Applications and notification of completeness

4 A. Notwithstanding any other law to the contrary, the secretary of the
 5 Department of **Energy and** Natural Resources and the commissioner of conservation
 6 shall, after notification by the department to the applicant that the application is
 7 complete, grant or deny all applications for all permits, licenses, registrations, or
 8 compliance in this or any other Title within sixty days. The notification of
 9 completeness shall be issued within fourteen days, exclusive of holidays, by the
 10 department. If the application is not complete the department shall notify the
 11 applicant in writing of the deficiencies which cause the application not to be
 12 complete. If the secretary or the commissioner does not grant the application, he
 13 shall provide written reasons for his decision to deny, and copies of the decision shall
 14 be provided to all parties. The secretary and the commissioner may delegate the
 15 power to grant permits, licenses, registrations, variances, or compliance schedules
 16 to an assistant.

17 * * *

18 §29. Remediation of oilfield sites and exploration and production sites

19 A. The legislature hereby finds and declares that Article IX, Section 1 of the
 20 Constitution of Louisiana mandates that the natural resources and the environment
 21 of the state, including ground water, are to be protected, conserved, and replenished
 22 insofar as possible and consistent with the health, safety, and welfare of the people
 23 and further mandates that the legislature enact laws to implement this policy. It is the
 24 duty of the legislature to set forth procedures to ensure that damage to the
 25 environment is remediated to a standard that protects the public interest. To this end,
 26 this Section provides the procedure for judicial resolution of claims for
 27 environmental damage to property arising from activities subject to the jurisdiction
 28 of the Department of **Energy and** Natural Resources, office of conservation. The
 29 provisions of this Section shall be implemented upon receipt of timely notice as
 30 required by Paragraph (B)(1) of this Section. The provisions of this Section shall not

1 be construed to impede or limit provisions under private contracts imposing
2 remediation obligations in excess of the requirements of the department or limit the
3 right of a party to a private contract to enforce any contract provision in a court of
4 proper jurisdiction.

5 B.(1) Notwithstanding any law to the contrary, immediately upon the filing
6 or amendment of any litigation or pleading making a judicial demand arising from
7 or alleging environmental damage, the provisions of this Section shall apply and the
8 party filing same shall provide timely notice to the state of Louisiana through the
9 Department of **Energy and** Natural Resources, commissioner of conservation and
10 the attorney general. The litigation shall be stayed with respect to any such judicial
11 demand until thirty days after such notice is issued and return receipt is filed with the
12 court.

13 * * *

14 C.(1) * * *

15 (3)(a) * * *

16 (b)(i) If the department preliminarily approves or structures a preliminary
17 plan that requires the application of regulatory standards of an agency other than the
18 department or that provides an exception from the department's standards, within
19 fifteen days of such preliminary structuring or approval, the department shall submit
20 the plan to the Department of Agriculture and Forestry, the Department of
21 Environmental Quality, and the Department of **Energy and** Natural Resources for
22 review and comment. Within thirty days after the department's submission of the
23 plan to all of the agencies, each agency may provide written comments regarding the
24 plan. Each agency providing written comments shall submit a schedule of the
25 agency's costs for review of the plan to the court for reimbursement by the
26 responsible party. Failure of an agency to respond to the department shall not affect
27 the validity of the plan approved by the department. The department and agency
28 heads shall coordinate in order to establish protocol to ensure inter-agency
29 communication regarding plan development, timely delivery of all proposed plans
30 to the appropriate agency heads, and timely receipt of all agency comments back to

1 the department.

2 * * *

3 §73. Definitions

4 As used in this Part, the following terms shall have the meaning ascribed to
5 them in this Section, unless the context or use clearly indicates otherwise:

6 (1) "Commissioner" means the commissioner of the office of conservation
7 within the Department of **Energy and** Natural Resources or his authorized
8 representatives from the injection and mining division of that office.

9 * * *

10 §81. Policy and purpose

11 * * *

12 B. It is in the public interest and within the police power of this state to
13 establish an oilfield site restoration commission and an oilfield site restoration fund
14 to provide for the proper and timely cleanup, closure, and restoration of oilfield sites,
15 to be administered by the assistant secretary of the office of conservation within the
16 Department of **Energy and** Natural Resources.

17 * * *

18 §82. Definitions

19 As used in this Part, the following terms shall have the meanings ascribed to
20 them in this Section, unless the context or use clearly indicates otherwise:

21 (1) "Assistant secretary" means the assistant secretary of the office of
22 conservation within the Department of **Energy and** Natural Resources or his
23 authorized representatives.

24 * * *

25 (4) "Department" means the Department of **Energy and** Natural Resources.

26 * * *

27 (13) "Secretary" means the secretary of the Department of **Energy and**
28 Natural Resources.

29 * * *

30 §83. Oilfield Site Restoration Commission; Department of **Energy and** Natural

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Resources

A. The Oilfield Site Restoration Commission is hereby created within the office of the secretary of the Department of **Energy and** Natural Resources. The commission shall have the power to sue and be sued and shall be domiciled in the parish of East Baton Rouge. Venue for any suit brought by or against the commission shall be in the Nineteenth Judicial District Court.

B. The commission shall consist of ten members comprised as follows:

(1) The secretary of the Department of **Energy and** Natural Resources, who shall serve as the chairman and the assistant secretary, who shall serve as vice chairman. The undersecretary of the department may serve as a proxy member of the board in the absence of the secretary with full authority to act for the secretary as a member of the board.

* * *

F. The powers of the commission shall be limited to the following:

* * *

(5) Review administration of site restoration activities and review the adequacy of site restoration assessments and reopen the funding needs and arrangements for site-specific trust accounts every four years. However, unless the oilfield site is transferred from one party to another after the adoption of a standard for evaluation, site-specific trust accounts established prior to the adoption of a standard for evaluation by the office of conservation, Department of **Energy and** Natural Resources shall not be reassessed if the operator of record provides to the office on an annual basis, utilizing the methodology in use at the time the site-specific trust account was established, proof that the security is adequate to ensure proper closure of the wells upon completion of activity.

* * *

H. The Department of **Energy and** Natural Resources shall adopt rules and regulations, in accordance with the Administrative Procedure Act, to implement the provisions of this Part and to provide for procedures for site assessments and restoration.

1 * * *

2 §86. Oilfield Site Restoration Fund

3 * * *

4 E. Except as otherwise provided in this Section, the monies in the fund may
5 be disbursed and expended pursuant to the authority and direction of the secretary
6 or assistant secretary for the following purposes and uses:

7 (1) Any oilfield site assessment or restoration conducted by the Department
8 of **Energy and** Natural Resources pursuant to this Part, and the payment of the
9 principal, interest, and legal fees, credit enhancement fees, trustee fees, and other
10 related costs of issuance or ongoing expenses in connection with issuance of bonds
11 or other debt obligations on behalf of the commission, at the direction of the
12 secretary, pursuant to R.S. 30:83.1 for the purpose of financing the costs of such
13 oilfield site assessments and restorations.

14 * * *

15 (7) Except for the costs of administration of this Part by the Department of
16 **Energy and** Natural Resources not exceeding the limitations set by the United States
17 Congress or administering federal agency for the federal funds appropriated or
18 granted, the monies deposited into the fund pursuant to Paragraphs (D)(9), (10), and
19 (11) of this Section shall be used only for the purposes of assessing and restoring
20 orphan oilfield sites. Notwithstanding any other requirements in this Part, such
21 monies may be expended by the secretary through a contract entered into under any
22 competitive process authorized by Title 38 or 39 of the Louisiana Revised Statutes
23 of 1950. The contract may be awarded to any qualified party whether or not the party
24 is on the approved list of contractors acceptable to conduct site assessment and
25 restoration by the commission.

26 * * *

27 §89.1. Credits for judgments or compromises

28 In the event an owner of a property interest in an oilfield site, or in other
29 property affected by oil or gas exploration, development, or production activities on
30 an oilfield site, obtains a final judgment from a court of competent jurisdiction,

1 pursuant to the provisions of this Title or any other law or regulation or any
2 obligation whatsoever, including but not limited to obligations imposed by contract
3 or by law, or enters into a binding compromise, which judgment or compromise
4 awards damages or other relief for injury to such property interest resulting from oil
5 or gas exploration, development, or production activities on an oilfield site, including
6 but not limited to damages equivalent to the costs of site assessment or restoration,
7 or which judgment or compromise requires the performance of site assessment,
8 restoration, or any other operations or activities on an oilfield site, in any action,
9 judicial or administrative, by the state of Louisiana or any state agency to enforce
10 any law or regulation with regard to the consequences of the same oil or gas
11 exploration, development, or production activities on the same oilfield site, then
12 solely to the extent that a judgment or compromise after June 30, 2006, is shown to
13 have been satisfied or discharged by the actual performance of site restoration in
14 accordance with the appropriate regulatory standards of the Department of **Energy**
15 **and** Natural Resources, office of conservation at a minimum, or by actual site
16 assessment, the party against whom such judgment was rendered, or who is obligated
17 by such compromise, shall be given full credit against the obligation sought to be
18 enforced by the state of Louisiana or any state agency, and such obligation shall be
19 reduced proportionately, in amounts equal to the portion of such judgment or
20 compromise paid, satisfied, or discharged or the costs of the performance of any site
21 assessment, restoration, or other operations or activities required by such judgment
22 or compromise.

23 * * *

24 §91. Orphaned oilfield sites

25 * * *

26 B.(1) * * *

27 (2)(a) * * *

28 (c) In the event that lienholder is not properly notified as provided herein, any
29 claim by the holder or holders against the commission, Department of **Energy and**
30 Natural Resources, office of conservation, or the contractors for the value of the

1 salvaged property shall be limited to the actual cash value of the salvaged property
2 at the time of salvage.

3 * * *

4 §95. No inference of liability on the part of the state

5 * * *

6 D. No party contracting with the Department of **Energy and** Natural
7 Resources, office of conservation, or the commission under the provisions of this
8 Part shall be deemed to be a public employee or an employee otherwise subject to
9 the provisions of Parts I through IV of Chapter 15 of Title 42 of the Louisiana
10 Revised Statutes of 1950.

11 * * *

12 §101.2. Policy and purpose

13 A. The legislature finds and declares that it is in the public interest and within
14 the police power of this state to establish a fishermen's gear compensation and
15 underwater obstruction removal program and a fishermen's gear compensation and
16 underwater obstruction removal dedicated fund account to provide for the proper and
17 timely identification, inventory, and removal of underwater obstructions that are a
18 hazard to navigation and commercial fishing in the state, and to compensate
19 commercial fishermen for damage to their fishing gear from the underwater
20 obstructions. The program and fund account shall be administered, for purposes of
21 fishermen's gear compensation, by the assistant secretary of the office of coastal
22 management and, for purposes of underwater obstruction, by the assistant secretary
23 of the office of conservation, both with the Department of **Energy and** Natural
24 Resources.

25 * * *

26 §101.3. Definitions

27 As used in this Part, the following terms shall have the meanings ascribed to
28 them in this Section, unless the context or use clearly indicates otherwise:

29 * * *

30 (2) "Assistant secretary" means the assistant secretary of the office of

1 conservation within the Department of **Energy and** Natural Resources or his
2 authorized representatives.

3 * * *

4 (4) "Department" means the Department of **Energy and** Natural Resources.

5 * * *

6 (7) "Secretary" means the secretary of the Department of **Energy and** Natural
7 Resources or his authorized representatives.

8 * * *

9 §101.4. Underwater Obstruction Removal Program

10 A. The Fishermen's Gear Compensation and Underwater Obstruction
11 Removal Program is hereby created within the office of the secretary of the
12 Department of **Energy and** Natural Resources and shall be administered, for
13 purposes of fishermen's gear compensation, by the assistant secretary of the office
14 of coastal management and, for purposes of underwater obstruction, by the assistant
15 secretary of the office of conservation.

16 * * *

17 §101.13. Disbursement of funds; eligibility; hearings

18 * * *

19 B. In order to be eligible to receive reimbursement from the account, a
20 commercial fisherman shall show that he has a valid claim. A valid claim shall be
21 established by the hearing examiner, based on evidence that the following conditions
22 have been met:

23 * * *

24 (3) The fisherman made a good faith effort to locate the financially
25 responsible party. Evidence of a good faith effort shall be established by regulation
26 and shall include attempts to identify the responsible party with the assistance of the
27 Department of **Energy and** Natural Resources where necessary.

28 C. Notwithstanding the provisions of Subsections A and B of this Section, no
29 payment:

30 * * *

1 (4) Shall be made for any claim at a site that has been certified by the
 2 assistant secretary of the office of conservation for the Department of **Energy and**
 3 **Natural Resources** as having been cleared under the provisions of this Part. Once a
 4 site has been cleared under the Louisiana Fishermen's Gear Compensation and
 5 Underwater Obstruction Removal Program, the assistant secretary shall certify that
 6 the site of at least two hundred yards in diameter is free of obstructions, and future
 7 claims at a site so certified shall be denied. Whenever four or more claims are
 8 reported after a site has been certified as clear, the site shall be revisited and the new
 9 or leftover obstruction shall be located and, if the department determines it is
 10 feasible, removed.

11 * * *

12 §121. State Mineral and Energy Board created; composition and powers

13 A. The State Mineral and Energy Board, as created by Act No. 93 of the 1936
 14 Regular Session, is hereby continued. The board shall be composed of the governor
 15 and the secretary of the Department of **Energy and** Natural Resources, ex officio,
 16 and nine members appointed by the governor. Each appointment by the governor
 17 shall be submitted to the Senate for confirmation. Six members shall constitute a
 18 quorum.

19 * * *

20 C. The governor shall be ex officio chairman or may designate the board to
 21 elect its chairman to serve for two years. The board shall be a body corporate with
 22 power to sue and be sued. The domicile of the board shall be in Baton Rouge and it
 23 shall possess in addition to the powers herein granted, all the usual powers incident
 24 to corporations. If the governor serves as ex officio chairman, in case of a tie, the
 25 vote of the governor shall determine the issue. If the governor has designated the
 26 board to elect its chairman, the chairman may vote only once on any motion. The
 27 deputy secretary or the undersecretary of the Department of **Energy and** Natural
 28 Resources may serve as a proxy member of the board in the absence of the secretary
 29 with full authority to act for the secretary as a member of the board.

30 * * *

1 §124. Board may lease public lands; fee

2 A. The legislature finds that the state, through the Department of **Energy and**
3 Natural Resources, should promote the generation and use of alternative energy
4 sources, including but not limited to wind energy, geothermal energy, solar energy,
5 and hydrokinetic energy, throughout the state to ensure the viability of the state's
6 natural resources, to provide a continuing utility-scale clean energy source for the
7 citizens and businesses of Louisiana, to support economic development through job
8 retention and creation in Louisiana, and to promote a clean environment.

9 * * *

10 §126. Inspection; quantity of land; advertisements for bids; fees

11 * * *

12 B.(1) * * *

13 (3) On its own motion and after complying with the provisions of R.S.
14 36:354(A)(2), or at the request of the secretary of the Department of **Energy and**
15 Natural Resources, the board shall advertise for bids for a lease in the same manner
16 as if an application had been made therefor.

17 * * *

18 §132. Attorney for the board

19 The attorney general shall be the attorney for the board, but the board shall
20 have authority to employ additional counsel and fix and pay the compensation for
21 such additional counsel or counselors, subject, however, to the authority of the
22 attorney general and the secretary of the Department of **Energy and** Natural
23 Resources to approve such counsel whereupon the attorney general shall issue, under
24 his power of appointment of assistants, a commission to such counsel as assistant
25 attorney general. However, any contract for legal services which exceed two hundred
26 fifty thousand dollars shall be subject to approval by the Joint Legislative Committee
27 on the Budget.

28 * * *

29 §135. Secretary and other employees

30 The Department of **Energy and** Natural Resources, through the office of

1 mineral resources shall provide the necessary staff functions to assist the board in its
2 leasing, supervisory, and other activities and the assistant secretary thereof shall
3 serve as secretary to the board.

4 §136. Funds, disposition and appropriation of; penalties

5 A.(1)(a) All bonuses, rentals, royalties, shut-in payments, or other sums
6 payable to the state as the lessor under the terms of valid existing mineral leases
7 entered into under this Subpart or previously granted by the state and under the
8 supervision of the board or from leases hereafter granted shall be paid to the office
9 of mineral resources, by check or electronic wire transfers only, and all such
10 payments if made payable to the register of the state land office as previously
11 required, may be endorsed and otherwise processed by the secretary of the
12 Department of **Energy and** Natural Resources pursuant to his general authority in
13 regard to the functions of that office as provided in R.S. 36:921 through R.S. 36:926.
14 A payor of royalty whose total monthly payment is fifty thousand dollars or more
15 shall pay the royalty payment by electronic wire transfer.

16 * * *

17 §136.3. Mineral and Energy Operation Fund

18 * * *

19 D. The monies in the fund shall be appropriated by the legislature to the
20 Department of **Energy and** Natural Resources to be used solely for the
21 administration and regulation of minerals, ground water, and related energy
22 activities. Additionally, monies deposited into the fund pursuant to Paragraph (B)(5)
23 of this Section shall be used solely for the administration and regulation of solar
24 power generation facilities.

25 * * *

26 §142. Board as agency to receive, administer, and control royalties in-kind; contract
27 authority

28 * * *

29 E.(1)(a) Upon receipt of a written proposal by an applicant to enter into a
30 contract with the board authorized by Subsection C of this Section concerning the

1 acquisition and use of available in-kind natural gas royalties and after publication of
 2 its intent to do so in the official journal of the state, the board may undertake arm's-
 3 length negotiations with the applicant resulting in terms which it deems to be most
 4 advantageous to the state and assuring that the applicant will use the in-kind royalties
 5 to satisfy and meet bona fide human needs, as defined herein. Under any such
 6 contract, the price at which any natural gas is to be sold shall be not less than the first
 7 of the month published price for the subject month for Henry Hub natural gas as
 8 reported in McGraw-Hill Companies' Platts Inside FERC's Gas Market Report or its
 9 successor, plus or minus the basis differential for the pipeline system into which the
 10 natural gas is delivered. However, for those leases for which an existing pricing
 11 mechanism provides a higher price than the above published price, the price the state
 12 receives for those specific leases shall not be less than the existing pricing
 13 mechanism. If the Inside FERC's Gas Market Report ceases to be published, the
 14 secretary of the Department of Energy and Natural Resources shall designate a
 15 substitute published source for the price data. If the above-referenced Henry Hub
 16 natural gas spot market price is discontinued, the secretary of the Department of
 17 Energy and Natural Resources shall designate a substitute reference price, to ensure
 18 a reasonably consistent pricing mechanism, until the legislature adopts a
 19 replacement.

20 * * *

21 §143. Transfer of solid mineral leases, approval by board

22 * * *

23 C. When a transfer is proposed under the circumstances described in
 24 Subsection B hereof, the proposed transferee shall first make application on forms
 25 to be prescribed by the secretary of the Department of Energy and Natural
 26 Resources pursuant to regulation. Such regulations shall require at a minimum,
 27 detailed information concerning the competence and integrity of the proposed
 28 transferee, including its financial and performance capabilities, as these bear upon
 29 its ability to perform all obligations under the lease or sublease in such a manner as
 30 not to adversely affect the public interest of the state as respects its natural resources,

1 including potential economic and physical waste and development of such resources,
2 or both. All applications shall be accompanied by a fee of one hundred dollars and
3 a bond to secure payment by the applicant of the actual costs of any investigation or
4 hearing hereunder.

5 D.(1) Prior to any action by the board on any such application, the secretary
6 of the Department of **Energy and** Natural Resources shall conduct a hearing on the
7 application, which shall be conducted as expeditiously as practicable consistent with
8 developing a full factual record. The seller, assignor, or sublessor of the lease or
9 sublease or the corporate entity whose stock the transferee proposes to acquire under
10 the circumstances described in Subsection B hereof shall be a necessary party to any
11 hearing hereunder, and to any investigation or other proceedings had in connection
12 therewith.

13 (2) In advance of any such hearing, the secretary of the Department of
14 **Energy and** Natural Resources shall have the same powers as are conferred upon the
15 commissioner of conservation by R.S. 30:909 to investigate, receive written
16 statements, administer oaths and affirmations, subpoena witnesses, compel their
17 attendance, take evidence, and require the production of any books, papers,
18 correspondence, memoranda, contracts, agreements, or other records or documents;
19 and any party to any such hearing shall have the right to take the testimony of any
20 witness and to compel any witness to appear and depose and to produce books,
21 papers, correspondence, memoranda, contracts and agreements, or other records or
22 documents, on the same terms as are contained in R.S. 30:909.

23 * * *

24 (4) Promptly after the conclusion of the hearing, the secretary of the
25 Department of **Energy and** Natural Resources shall prepare written findings of fact
26 and a recommended decision on the application. He shall transmit these to the State
27 Mineral and Energy Board together with a certified copy of the hearing record. After
28 giving due consideration to whether the evidence establishes that the proposed
29 transferee is competent and otherwise qualified to perform all of the obligations
30 under the lease or sublease in such a manner as not to adversely affect the public

1 interest of the state as respects its natural resources, the State Mineral and Energy
2 Board shall issue a written decision granting or denying the application in whole or
3 in part or upon such conditions as it may deem appropriate.

4 * * *

5 (6) Anything herein to the contrary notwithstanding, the secretary of the
6 Department of **Energy and** Natural Resources may transmit a recommended
7 decision to the State Mineral and Energy Board without first conducting an
8 investigation or holding a hearing if (i) all necessary parties to the hearing file
9 affidavits with the secretary of the Department of **Energy and** Natural Resources
10 attesting their belief that there are no substantial issues requiring an investigation or
11 hearing and (ii) the secretary independently determines that there are no substantial
12 issues requiring an investigation or hearing.

13 E. The secretary of the Department of **Energy and** Natural Resources shall
14 have authority to issue all necessary or appropriate regulations to implement this
15 Section.

16 F. Whenever it appears to the State Mineral and Energy Board or the
17 secretary of the Department of **Energy and** Natural Resources that any person has
18 engaged or is about to engage in any act or practice constituting a violation of any
19 provision of this Section, the secretary of the Department of **Energy and** Natural
20 Resources may investigate and issue orders and notices. In addition to all other
21 remedies, the State Mineral and Energy Board or the secretary of the Department of
22 **Energy and** Natural Resources may bring an action in any court of competent
23 jurisdiction in the name and on behalf of this state against any person or persons
24 participating in or about to participate in a violation of this Section, to enforce
25 compliance with this Section, or enjoin any action in violation of this Section.

26 * * *

27 §144. Sale of royalties in-kind to small refiners

28 A. On or before December 31, 1979, the secretary of the Department of
29 **Energy and** Natural Resources shall submit to the State Mineral and Energy Board
30 for implementation a regulatory program for the sale and/or processing of in-kind

1 crude oil royalties to refiners in the state and procedures for the sale and/or
2 processing, delivery, and use of royalty crude oil, which at a minimum include the
3 following:

4 * * *

5 §150. Louisiana Royalty Relief Dry Hole Credit Program; requirements; conditions;
6 limitations; expiration

7 A. Notwithstanding any other provision of law to the contrary, the
8 Department of **Energy and** Natural Resources may by rule provide a dry hole credit
9 program as set forth in this Section for certain drilling in mineral leases on state-
10 owned lands or state-owned water bottoms in the coastal zone, as defined in R.S.
11 49:214.24.

12 B. The requirements for the royalty relief dry hole credit are as follows:

13 * * *

14 (7) The dry hole well records and reports shall at all times be open to
15 inspection and audit by the Department of **Energy and** Natural Resources.

16 * * *

17 D. If a dry hole credit is offered as provided in this Section, the Department
18 of **Energy and** Natural Resources, office of mineral resources, shall certify
19 qualification for the royalty relief dry hole credit, and provide forms and procedures
20 relative to such certification. Application and obtaining certification as a well
21 qualified to receive the royalty relief dry hole credit must be completed prior to
22 drilling of the qualifying well.

23 * * *

24 F. To utilize the royalty relief dry hole credit:

25 * * *

26 (2) The applicant shall agree to fully compensate for the adverse impacts to
27 coastal wetlands in an amount equal to at least one hundred twenty-five percent of
28 the habitat value of the affected wetlands, calculated in accordance with an
29 evaluation method adopted by the Department of **Energy and** Natural Resources.

30 * * *

1 H. The Department of **Energy and** Natural Resources shall promulgate and
2 adopt rules in accordance with the Administrative Procedure Act to implement the
3 provisions of this Section if a dry hole credit program is established.

4 * * *

5 §206. Publication of survey

6 The results of the geological surveys shall be published by the Department
7 of **Energy and** Natural Resources.

8 * * *

9 §209. State Mineral and Energy Board, authority of

10 In order to carry out the provisions of R.S. 30:208, the State Mineral and
11 Energy Board may:

12 * * *

13 (4)(a) * * *

14 (b) The office of mineral resources, on behalf of the mineral board, shall
15 administer all operating agreements. After deposit of all production payments to the
16 Bond Security and Redemption Fund, an amount equal to twenty-five percent of the
17 production payments from any operating agreement entered into after August 15,
18 1997, shall be credited to the Mineral and Energy Operation Fund for appropriation
19 to the Department of **Energy and** Natural Resources.

20 * * *

21 §212. Permits for surveys on public lands

22 A. The State Mineral and Energy Board shall have exclusive authority to
23 grant exclusive and nonexclusive permits to conduct geophysical and geological
24 surveys of any kind on state-owned lands, including water bottoms. No person shall
25 conduct a geophysical or geological survey on state-owned lands, including water
26 bottoms, without obtaining a permit. These permits shall be granted pursuant to rules
27 promulgated under the provisions of the Administrative Procedure Act by the
28 Department of **Energy and** Natural Resources. No permit shall be granted covering
29 lands over which the state has a mere servitude without consent of the owner of the
30 abutting property.

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* * *

§215. Nonexclusive geophysical permits

A. A nonexclusive permit to conduct seismic, geophysical, or geological surveying upon state-owned lands, including water bottoms, shall be valid for one year from the date of issuance. However, if operations commence within the year and are ceased due to unforeseen circumstances, the term may be extended for up to one year from the cessation of operations by the secretary of Department of **Energy** **and** Natural Resources. The permittee shall pay to the office of mineral resources at the time of application for the seismic permit a fee. Such fee shall be determined by the State Mineral and Energy Board at least every twelve months or as often as necessary. The fee shall be based upon market value but shall be no more than thirty dollars and no less than five dollars per acre.

* * *

§216. Exclusive geophysical permits

* * *

C.(1)

* * *

(2) The board may also cause notices to be sent to those whom the board determines would be interested in submitting bids. Upon the request of the board, the office of mineral resources shall prepare and mail the notice of publication. A reasonable fee adopted pursuant to the Administrative Procedure Act to cover the cost of preparing the mailing of the notice of publication may be charged by the office of mineral resources. On its own motion and after complying with the policies adopted pursuant to the provisions of R.S. 36:354(A)(2), or at the request of the secretary of the Department of **Energy** **and** Natural Resources, the board shall advertise for bids for a permit in the same manner as if an application had been made therefor.

* * *

§401. Advisory Commission for Louisiana's Energy, Environment, and Restoration;
purpose

There is hereby created the Advisory Commission for Louisiana's Energy,

1 Environment, and Restoration within the Department of **Energy and** Natural
 2 Resources. The commission shall support programs designed to demonstrate to the
 3 general public the importance of the Louisiana oil and natural gas exploration,
 4 production, and service industry; encourage the wise and efficient use of energy;
 5 promote environmentally sound production methods and technologies; develop
 6 existing supplies of Louisiana's oil and natural gas resources; support research and
 7 educational activities concerning the oil and gas exploration and production industry;
 8 cause remediation of historical oilfield environmental problems; and to have such
 9 other authority as provided by law.

10 * * *

11 §503. Definitions

12 As used in this Chapter, the following words and phrases have the meaning
 13 ascribed to them in this Section except as otherwise provided in this Chapter or
 14 unless a different meaning is plainly required by the context:

15 (1) "Assistant secretary" means the assistant secretary of the office of
 16 conservation of the Louisiana Department of **Energy and** Natural Resources.

17 * * *

18 §546. General powers to control natural resources and energy

19 A. The assistant secretary of the office of conservation of the Department of
 20 **Energy and** Natural Resources shall have the powers and duties of:

21 * * *

22 §702. Definitions

23 As used in this Part, the following words and phrases have the meanings
 24 hereinafter ascribed to them:

25 (1) "Assistant secretary" means the assistant secretary of the office of
 26 conservation of the Department of **Energy and** Natural Resources.

27 * * *

28 §723. Expropriation authority

29 * * *

30 G. Water used in the transportation of coal by pipeline to any point in

1 Louisiana shall conform to regulations of the Stream Control Commission and the
2 Department of Energy and Natural Resources prior to its discharge into rivers or
3 streams or holding pits from which seepage can occur.

4 * * *

5 §731. Definitions

6 As used in this Part, the following words and phrases shall have the meanings
7 hereinafter ascribed to them:

8 (1) "Assistant secretary" means the assistant secretary of the office of
9 conservation of the Department of Energy and Natural Resources.

10 * * *

11 §904. Definitions

12 * * *

13 (5) "Department of Energy and Natural Resources" and "department" means
14 the Department of Energy and Natural Resources of the State of Louisiana.

15 * * *

16 (20) "Secretary of Natural Resources" or "Secretary" means the Secretary of
17 Natural Resources of the Department of Energy and Natural Resources of the State
18 of Louisiana.

19 * * *

20 §905. Jurisdiction and powers; rules and regulations

21 A. The Department of Energy and Natural Resources, Office of
22 Conservation, or such persons as may be designated by the commissioner, is hereby
23 designated as the official agency whose duty it is to administer the regulations and
24 guidelines contained in this Chapter and to institute such other reasonable regulations
25 and guidelines, after notice and public hearing, as may become necessary pursuant
26 to this Chapter to protect state and private lands from unreasonable degradation by
27 any operator engaged in surface coal mining operations. Exclusive jurisdiction over
28 all aspects of surface coal mining and reclamation shall be vested in the Department
29 of Energy and Natural Resources, Office of Conservation. The Secretary of Natural
30 Resources shall be responsible for the policies of the State relating to the

1 development of the State's lignite reserves, including the transportation and
 2 utilization thereof, and shall formulate plans and shall advise the Governor and the
 3 Legislature with respect to short and long term policies of the State concerning the
 4 development of the State's lignite reserves, including the transportation and
 5 utilization thereof, and the integration of the development of the State's lignite
 6 reserves into the development of the State's fuel sources. The secretary of the
 7 Department of Energy and Natural Resources in cooperation with the Commissioner
 8 of Conservation shall establish, for the purpose of avoiding duplication, a process for
 9 coordinating the review and issuance of permits for surface coal mining and
 10 reclamation operations with any other federal or state permit process applicable to
 11 the proposed operations.

12 B. The authority shall be vested in the commissioner, and such other persons
 13 as may be designated by the commissioner, to administer and enforce the provisions
 14 of this Chapter, and he shall seek the accomplishment of the purposes of this Chapter
 15 by all practicable and economically feasible methods and in so doing shall have the
 16 following duties and powers:

17 * * *

18 (9) To contract, upon such terms as he may agree upon, for legal, financial,
 19 engineering and other professional services necessary to expedite the conduct of the
 20 affairs of the Department of Energy and Natural Resources, Office of Conservation,
 21 under the provisions of this Act.

22 * * *

23 §905.1. Abandoned mine reclamation; fund participation

24 A. The commissioner is authorized to take all action necessary to ensure
 25 Louisiana's participation to the fullest extent practicable in the abandoned mines
 26 reclamation fund established by the Surface Mining Control and Reclamation Act,
 27 as amended, 30 U.S.C. 1201 et seq.; and the office of conservation of the Department
 28 of Energy and Natural Resources shall function as the state's agency for such
 29 participation. Pursuant to the Surface Mining Control and Reclamation Act, as
 30 amended, 30 U.S.C. 1201 et seq., the commissioner shall by rule establish priorities

1 that meet the terms of the Surface Mining Control and Reclamation Act as amended,
 2 30 U.S.C. 1201 et seq., and applicable federal regulations for the expenditure of
 3 those funds; designate the land and water eligible for reclamation or abatement
 4 expenditures; submit reclamation plans, annual projects, and applications to the
 5 appropriate authorities; undertake emergency reclamation projects pursuant to the
 6 terms of the Surface Mining Control and Reclamation Act, as amended, 30 U.S.C.
 7 1201 et seq., and applicable federal regulations; and administer all money received
 8 for abandoned mine reclamation or related purposes.

9 * * *

10 §953. Limitations

11 * * *

12 C. A copy of the bylaws of the Interstate Mining Commission shall be placed
 13 on file with the secretary of the Department of **Energy and** Natural Resources and
 14 be available for inspection at any reasonable time by the legislature or any interested
 15 citizen.

16 * * *

17 §962. Definitions

18 As used in this Chapter, the following words, terms, and phrases have the
 19 meanings ascribed to them in this Section, unless the context clearly indicates a
 20 different meaning:

21 * * *

22 (2) "Secretary" means the secretary of the Department of **Energy and** Natural
 23 Resources, and his designees.

24 §963. Management by the Department of **Energy and** Natural Resources

25 A. Except as otherwise provided by law, the Department of **Energy and**
 26 Natural Resources shall be the state agency charged with managing and monitoring
 27 the implementation of all cooperative endeavor agreements to withdraw running
 28 surface water or assignments thereof. The secretary shall have the authority to
 29 designate where within his agency the various functions of this Chapter are to be
 30 performed, to issue contracts or enter into agreements with other public entities when

1 required in his opinion for the efficient administration of this Chapter, and to
2 establish any necessary policy or promulgate, in accordance with the provisions of
3 the Administrative Procedure Act, any regulations that in his opinion are necessary
4 for the efficient implementation of this Chapter.

5 * * *

6 §1103. Definitions

7 Unless the context otherwise requires, the words defined in this Section have
8 the following meaning when found in this Chapter:

9 * * *

10 (7) "Office" means the office of conservation, Department of **Energy and**
11 Natural Resources.

12 * * *

13 §1105. Hearings; notice; rules of procedures; emergency; service of process; public
14 records; request for hearings; orders and compliance orders

15 * * *

16 B. All rules, regulations, and orders made by the commissioner under this
17 Chapter shall be in writing and shall be entered in full by him in a book kept for that
18 purpose. This book shall be a public record and shall be open for inspection at all
19 times during reasonable office hours and shall be available on the Department of
20 **Energy and** Natural Resources website. A copy of a rule, regulation, or order,
21 certified by the commissioner, shall be received in evidence in all courts of this state
22 with the same effect as the original.

23 * * *

24 §1109. Cessation of storage operations; liability release

25 * * *

26 F. No party contracting with the Department of **Energy and** Natural
27 Resources, office of conservation, or the commissioner under the provisions of this
28 Chapter shall be deemed to be a public employee or an employee otherwise subject
29 to the provisions of Parts I through IV of Chapter 15 of Title 42 of the Louisiana
30 Revised Statutes of 1950.

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* * *

§1152. Development and coordination of program; priorities

A. The secretary of the Department of **Energy and** Natural Resources or his designee, hereafter in this Chapter referred to as the "secretary," shall develop and coordinate a program of research and development in solar energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development which are of particular importance to the state, including, but not limited to, all of the following:

* * *

§1154. Regulations governing solar power generation facilities; solar leases

A. The secretary shall develop and adopt, in cooperation with affected utility, agricultural, and solar industries, landowners, and consumer representatives and after one or more public hearings, regulations governing solar power generation facilities and property leases for the exploration, development, and production of solar energy. The regulations shall be designed to encourage the development and use of solar **Energy and** to provide maximum information to the public concerning solar devices and solar power generation facilities. The regulations may include all of the following:

* * *

(9)(a) Requirements for a permit to construct or operate a solar power generation facility shall include a bond or other acceptable financial security in an amount determined by the secretary to ensure proper site closure. Any bond shall be executed by the permittee and a corporate surety licensed to do business in the state. The bond or other instrument shall be payable to the Department of **Energy and** Natural Resources, except the secretary may accept any financial security provided to the landowner or lessor for facilities exempted from permit fees pursuant to Paragraph (D)(3) of this Section. Any bond or other instrument shall ensure the following:

* * *

§1202. Definitions

1 Except where the context clearly indicates otherwise, as used in this Chapter:

2 * * *

3 (8) "Secretary" means the secretary of the Department of **Energy and** Natural
4 Resources or his designee.

5 * * *

6 §1354. Definitions

7 As used in this Chapter, the following terms shall have the following
8 meanings unless the context clearly indicates otherwise:

9 * * *

10 (6) "Secretary" means the secretary of the Department of **Energy and** Natural
11 Resources.

12 * * *

13 §1401. Statement of findings

14 * * *

15 B. With the approval of the United States Department of Energy, the
16 Louisiana Department of **Energy and** Natural Resources administers the federal oil
17 overcharge monies due the state, as appropriated by the legislature. Early legislative
18 input and recommendations on state expenditure plans will maximize efficient
19 delivery of services and benefits to Louisiana's consumers, particularly those interest
20 groups including low income persons, educational institutions, and hospitals, served
21 by mandated federal programs.

22 C. The legislature finds and declares that in order to provide legislators with
23 information as to expenditure restrictions and to encourage interaction among the
24 Louisiana Department of **Energy and** Natural Resources, the legislature, and the
25 United States Department of Energy, a special joint legislative committee on federal
26 oil overcharge monies shall be created.

27 §1402. Joint legislative committee on federal oil overcharge monies

28 * * *

29 B. The Joint Committee on Federal Oil Overcharge Monies shall review the
30 oil overcharge refund program as a whole and provide legislative guidance to the

1 Department of **Energy and** Natural Resources relative to the development of state
2 plans to expend federal oil overcharge refund monies.

3 * * *

4 D. In the conduct of its studies and proceedings, the Joint Committee on
5 Federal Oil Overcharge Monies shall utilize the personnel and services of the staff
6 of the Senate and House of Representatives. The Department of **Energy and** Natural
7 Resources shall assist the committee in the performance of its duties and functions
8 as the committee shall request.

9 * * *

10 §2004. Definitions

11 The following terms as used in this Subtitle, unless the context otherwise
12 requires or unless redefined by a particular Chapter hereof, shall have the following
13 meanings:

14 * * *

15 (12) "Pollutant" means those elements or compounds defined or identified as
16 hazardous, toxic, or noxious, or as hazardous, solid, or radioactive wastes under this
17 Subtitle and regulations, or by the secretary, consistent with applicable laws and
18 regulations. For the purposes of the Louisiana Pollutant Discharge Elimination
19 System, as defined in R.S. 30:2073(6), "pollutant" means dredged spoil, solid waste,
20 incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions,
21 chemical wastes, biological materials, radioactive materials, except those regulated
22 under the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq., as amended, heat,
23 wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal,
24 and agricultural waste discharged into water. For the purposes of the Louisiana
25 Pollutant Discharge Elimination System, as defined in R.S. 30:2073(6), "pollutant"
26 does not mean:

27 (a) Water, gas, waste, or other material which is injected into a well for
28 disposal in accordance with a permit approved by the Department of **Energy and**
29 Natural Resources or the Department of Environmental Quality.

30 * * *

1 §2011. Department of Environmental Quality created; duties; powers; structure

2 * * *

3 D. The secretary shall have the following powers and duties:

4 * * *

5 (20) To develop and implement a nonpoint source management and
6 groundwater quality protection program and a conservation and management plan
7 for estuaries, to receive federal funds for this purpose and provide matching state
8 funds when required, and to comply with terms and conditions necessary to receive
9 federal grants. The nonpoint source conservation and management plan, the
10 groundwater protection plan, and the plan for estuaries shall be developed in
11 coordination with, and with the concurrence of the appropriate state agencies,
12 including but not limited to the Department of **Energy and** Natural Resources, the
13 Department of Wildlife and Fisheries, the Department of Agriculture and Forestry,
14 and the State Soil and Water Conservation Commission in those areas pertaining to
15 their respective jurisdictions.

16 * * *

17 §2015.1. Purpose; remediation of usable ground water

18 * * *

19 L. This Section shall not apply to oilfield sites or exploration and production
20 (E&P) sites regulated by the Department of **Energy and** Natural Resources, office
21 of conservation. "Oilfield site" or "exploration and production (E&P) site" means any
22 oilfield site or exploration and production site as defined in R.S. 30:29(I)(4).

23 * * *

24 §2035. Environmental Emergency Response Training Program

25 * * *

26 B.(1) * * *

27 (2) In order to encourage training programs to further the purposes of the
28 Louisiana Environmental Quality Act, as provided in R.S. 30:2011(D)(8), the
29 department may make allocations available only for those training programs which
30 meet certain basic guidelines for emergency response training established by the

1 Department of Public Safety and Corrections or the Department of **Energy and**
 2 Natural Resources in conjunction with the Peace Officers Standard Training (POST).
 3 At a minimum, such guidelines shall require that training provide instruction in
 4 emergency response situations peculiar or applicable to Louisiana.

5 * * *

6 §2074. Water quality control; secretary of environmental quality; powers and duties

7 * * *

8 C. The office of the secretary shall, in conjunction and coordination with the
 9 Department of **Energy and** Natural Resources, conduct a risk analysis of the
 10 discharge of produced waters, excluding cavern leach waters, from oil and gas
 11 activities onto the ground and into the surface waters in the coastal wetlands of this
 12 state. The analysis shall examine the environmental risks and economic impact of
 13 allowing such discharges in the coastal wetlands and the economic impact on the oil
 14 and gas industry if such discharges are prohibited. The analysis shall be completed
 15 and delivered to the committees on natural resources of the House of Representatives
 16 and Senate no later than April 1, 1988.

17 * * *

18 E. No later than October 1, 1995, the secretary shall adopt rules and
 19 regulations to govern the discharge from commercial facilities of liquid wastes that
 20 contain methanol alcohol. The rules and regulations shall require pre-treatment of
 21 such waste before entering any sewer system, septic tank, or any surface waters of
 22 the state. The provisions of this Subsection shall not apply to veterinarians and
 23 hospitals. The rules adopted pursuant to this Subsection shall not be applicable to
 24 industrial facilities required to obtain permits for discharge of liquid wastes from
 25 Louisiana Department of Environmental Quality, the United States Environmental
 26 Protection Agency, or the Louisiana Department of **Energy and** Natural Resources.

27 * * *

28 §2248. Modification of contribution report

29 * * *

30 C.(1) After all adjustments provided for in this Chapter, the total amount of

1 dry weight tons contributed by any disposer or generator to the hazardous waste
 2 content of Louisiana lands shall be reduced by the total amount of dry weight tons
 3 of hazardous wastes generated or disposed because of an order by the secretary, the
 4 secretary of the Department of **Energy and** Natural Resources, or a court, ordering
 5 the cleanup of any abandoned waste site where the parties held responsible for the
 6 waste at the site are bearing the cost of the cleanup.

7 * * *

8 §2397. Distribution of revenue

9 The state treasurer shall each fiscal year deposit the revenues generated under
 10 the provisions of this Chapter, from taxes applicable to the sale of reclaimed water,
 11 or other sources as provided for by law into the Bond Security and Redemption
 12 Fund. Out of the funds from such sources remaining in the Bond Security and
 13 Redemption Fund after a sufficient amount is allocated from that fund to pay all
 14 obligations secured by the full faith and credit of the state which become due and
 15 payable within any fiscal year, the treasurer shall deposit an amount equal to one-
 16 quarter of the revenues generated from the reclaimed water program into the Clean
 17 Water State Revolving Fund, enacted in R.S. 30:2301 et seq., which shall be used for
 18 making grants to local governments to finance primary waste treatment facilities;
 19 one-quarter into the Coastal Resources Trust Dedicated Fund Account, created in
 20 R.S. 49:214.40, and the remainder shall be used by the Department of **Energy and**
 21 Natural Resources for the protection of groundwater resources. Use of these funds
 22 shall be subject to an appropriation by the legislature.

23 * * *

24 §2458. Interagency council

25 A. The coordinator shall convene at least twice annually and as deemed
 26 necessary and serve as chairperson to a cooperative council, the interagency council,
 27 composed of the following:

28 * * *

29 (4) The secretary of the Department of **Energy and** Natural Resources or his
 30 designee.

1 * * *

2 §2459. State oil spill contingency plan

3 A. The coordinator shall develop and distribute to the public a state oil spill
 4 contingency plan of response for actual or threatened unauthorized discharges of oil
 5 and clean up of pollution from such discharges. In addition, the Department of
 6 Environmental Quality, in cooperation with the coordinator, shall recommend
 7 provisions of the plan relating to unauthorized discharges of oil. The Department of
 8 Wildlife and Fisheries, in cooperation with the coordinator, shall recommend
 9 provisions of the plan providing for protection, rescue, and rehabilitation of aquatic
 10 life and wildlife and appropriate habitats on which they depend under its jurisdiction.
 11 The executive director of the Coastal Protection and Restoration Authority, in
 12 cooperation with the coordinator, shall recommend provisions of the plan for
 13 providing for the protection and restoration of the coastal areas of the state. The
 14 Department of **Energy and** Natural Resources, in cooperation with the coordinator,
 15 shall recommend provisions of the plan providing for protection and rehabilitation
 16 of appropriate resources under its jurisdiction. The Department of Public Safety and
 17 Corrections, in cooperation with the coordinator, shall recommend provisions of the
 18 plan providing for emergency response coordination to protect life and property,
 19 excluding prevention, abatement, containment, and removal of pollution from an
 20 unauthorized discharge.

21 * * *

22 D. Prior to adopting the state oil spill contingency plan, the coordinator shall
 23 adopt a fully delineated inland boundary for coastal waters as defined in this Chapter,
 24 which boundary shall be based upon data provided by, including but not limited to
 25 the United States Army Corps of Engineers, United States Department of the
 26 Interior, the Coastal Protection and Restoration Authority, the Louisiana Department
 27 of **Energy and** Natural Resources, and the oil and gas industry. The coordinator
 28 shall be authorized to amend the boundary by rule as conditions may warrant. The
 29 boundary, as adopted, shall be clearly marked on large scale maps or charts, official
 30 copies of which shall be available for public inspection in the Coastal Protection and

1 Restoration Authority, the office of coastal management in the Department of
2 Energy and Natural Resources, in each agency comprising the interagency council,
3 and in the parish seat of each parish located within the boundary.

4 §2460. Contingency plan provisions

5 A. The plan shall include all of the following:

6 * * *

7 (14) Procedures established in cooperation with the Department of
8 Environmental Quality, Department of Wildlife and Fisheries, the Coastal Protection
9 and Restoration Authority, and Department of Energy and Natural Resources for
10 assessment of natural resources damages and plans for mitigation of damage to and
11 restoration, protection, rehabilitation, or replacement of damaged natural resources.
12 Pursuant to R.S. 49:214.1 et seq., the Coastal Protection and Restoration Authority
13 is responsible for integrated coastal protection in the coastal area of the state,
14 therefore, the Coastal Protection and Restoration Authority and the Coastal
15 Protection and Restoration Authority Board shall assist the coordinator in a primary
16 role in assessing natural resource damages in the coastal area.

17 * * *

18 §2469. Derelict vessels and structures

19 * * *

20 E. The office of conservation in the Department of Energy and Natural
21 Resources may petition the coordinator to abate an unauthorized discharge or the
22 threat of a discharge from a facility or structure which the secretary certifies to be
23 involved in an actual discharge or poses a threat of a discharge and for which the
24 secretary certifies that the office of conservation cannot immediately locate a viable
25 responsible party. Upon approval of the department's petition the coordinator shall
26 reimburse the office of conservation for all expenses incurred, within the limits of
27 provisions of this Section, and he shall seek reimbursement for the fund as provided
28 elsewhere in this Chapter. The coordinator shall use monies in the fund for this
29 purpose, which shall not exceed two million dollars in any fiscal year.

30 * * *

1 §2495. Institutions of higher education

2 The coordinator by interagency contract may provide grants to state
 3 institutions of higher education for research, testing, and development of discharge
 4 prevention and response technology, discharge response training, wildlife and natural
 5 resources protection, rescue, and rehabilitation, development of computer models to
 6 predict the movements and impacts of discharges, and other purposes consistent with
 7 and in furtherance of the purposes of this Chapter. Contracts or agreements relating
 8 to wildlife, aquatic resources, and habitats under the jurisdiction of the Department
 9 of Wildlife and Fisheries shall be made in coordination with that department.
 10 Contracts or agreements relating to wetlands and coastal resources under the
 11 jurisdiction of the Department of **Energy and** Natural Resources shall be made in
 12 coordination with that department. To the greatest extent possible, contracts shall be
 13 coordinated with studies being done by other state agencies, the federal government,
 14 or private industry to minimize duplication of efforts.

15 * * *

16 §2575. Restrictions on the sale of certain mercury-added products

17 * * *

18 D. On and after July 1, 2007, no mercury dairy or natural gas manometers
 19 shall be offered for final sale or use or distributed for promotional purposes in
 20 Louisiana. Manufacturers that produce and sell mercury dairy or natural gas
 21 manometers shall notify retailers about the provisions of this product ban and how
 22 to dispose of the remaining inventory properly. The Department of Environmental
 23 Quality in consultation with the Louisiana Department of Agriculture and Forestry
 24 and the Louisiana Department of **Energy and** Natural Resources shall examine the
 25 feasibility of implementing a collection and replacement program for dairy and
 26 natural gas manometers, respectively, including technical and monetary assistance
 27 to operations that once contained mercury manometers.

28 Section 6. R.S. 31:149(A) is hereby amended and reenacted to read as follows:

29 §149. Mineral rights reserved from acquisitions of land by governments or agencies
 30 thereof imprescriptible; prescription period in acquisitions for

1 economic development

2 A. "Acquiring authority" for the purposes of this Section means (1) the
 3 United States, the state of Louisiana, and a subdivision, department or agency of
 4 either the United States or the state of Louisiana; (2) any legal entity with authority
 5 to expropriate or condemn, except an electric public utility acquiring land without
 6 expropriation. An electric public utility acquiring land through expropriation shall
 7 be considered as an acquiring authority; and (3) a nonprofit entity, recognized under
 8 Sections 501(c)(3) and 170 of the Internal Revenue Code as being organized and
 9 operated as a public charitable organization, that is certified by the secretary of the
 10 Department of **Energy and** Natural Resources to be a state or national land
 11 conservation organization. The certification shall be in writing and shall be a public
 12 record. Such certification shall not for that reason alone be construed to authorize the
 13 nonprofit entity to exercise expropriation powers. With respect to certifications
 14 occurring on and after August 1, 2004, an entity's certification shall require approval
 15 by official action of both the Senate Committee on Natural Resources and the House
 16 Committee on Natural Resources and Environment.

17 * * *

18 Section 7. R.S. 32:1511 and 1513.1(A) are hereby amended and reenacted to read as
 19 follows:

20 §1511. Illegal discharge of hazardous materials

21 No person shall intentionally discharge or cause to be discharged the contents
 22 of any transport vehicle containing hazardous material between the points of origin
 23 and the points of billed destination, except as authorized by representatives of the
 24 Department of Public Safety or the Department of **Energy and** Natural Resources.

25 * * *

26 §1513.1. Immunity from civil liability; limitations

27 A. A person qualified by training, education, or experience, shall be immune
 28 from civil liability for the rendering of care, assistance, or advice, in the area of these
 29 qualifications, if responding to an emergency dealing with the prevention or
 30 management of an incident resulting from the storage or transportation of hazardous

1 materials at the request of the local civil defense director or his designee, the chief
2 local law enforcement officer in the jurisdiction where the incident occurs or his
3 designee, the state police, or the hazardous waste division's emergency response
4 section within the Department of Energy and Natural Resources.

5 * * *

6 Section 8. R.S. 33:1236(56), 1236.25(C), 1236.27, 1419.1(C), the introductory
7 paragraph of 1419.2(1), 1419.2(6), 1419.3, 1419.4(A) and (D)(1), 1419.5(1) and (4),
8 1419.6(A), (B), (D), and (E), 4064.4(E) and (J), 4065.3(E) and (I), 4522, 4523, 4524, 4526,
9 and 4546.21(B) are hereby amended and reenacted to read as follows:

10 §1236. Powers of parish governing authorities

11 The police juries and other parish governing authorities shall have the
12 following powers:

13 * * *

14 (56) The Ouachita Parish Police Jury shall have the authority to enact
15 ordinances regulating the excavation of land within the unincorporated areas of the
16 parish of Ouachita, including but not by way of limitation the requirement that a
17 permit be obtained prior to any excavation of land; that all excavations of land
18 conform to certain prescribed design criteria, and for such other similar rules and
19 regulations as may be enacted by the Ouachita Parish Police Jury. However, nothing
20 herein shall be construed to apply to facilities permitted or regulated by the
21 Department of Environmental Quality or the Department of Energy and Natural
22 Resources.

23 * * *

24 §1236.25. Pointe Coupee Parish; False River; encroachments

25 * * *

26 C. Any ordinance adopted in accordance to Subsections A and B of this
27 Section shall not become effective until the ordinance is approved by the Department
28 of Energy and Natural Resources.

29 * * *

30 §1236.27. Cameron Parish; liquid or solid waste

1 A. The governing authority of Cameron Parish may provide by ordinance for
 2 zoning and land use regarding any public or private facility for the disposal,
 3 incineration, or storage of liquid or solid waste within the parish. The types and
 4 quantities of the waste to be disposed of, incinerated, or stored at such a facility shall
 5 be in compliance with any permit granted by the Department of Environmental
 6 Quality and with any permit issued by the office of conservation of the Department
 7 of **Energy and** Natural Resources.

8 B. The authorization provided for in this Section shall not supersede the
 9 authority of the Department of Environmental Quality or the authority of the
 10 Department of **Energy and** Natural Resources.

11 * * *

12 §1419.1. Legislative findings

13 * * *

14 C.(1) To assist in financing its political subdivisions for these purposes, the
 15 Alternative Fuel Vehicle Revolving Loan Fund Program is established in this
 16 Subpart to facilitate a state effort and to operate to the extent determined feasible by
 17 the Department of **Energy and** Natural Resources in conjunction with federal
 18 assistance under a state transportation plan or any other federal or private source of
 19 assistance or funding, or both.

20 (2) The financial administration of the Alternative Fuel Vehicle Revolving
 21 Loan Fund shall be with the Department of **Energy and** Natural Resources.

22 (3) Relative to the Alternative Fuel Vehicle Revolving Loan Fund Program,
 23 the Department of **Energy and** Natural Resources shall have the authority to
 24 establish assistance priorities and perform oversight and other related activities.

25 §1419.2. Definitions

26 As used in this Subpart, the following terms shall have the meanings ascribed
 27 to them in this Section, unless the context clearly indicates otherwise:

28 (1) "Administrative costs" means costs incurred by the Department of
 29 **Energy and** Natural Resources in the administration of the program, including but
 30 not limited to:

1 * * *

2 (6) "Department" means the Department of **Energy and** Natural Resources.

3 * * *

4 §1419.3. Alternative Fuel Vehicle Revolving Loan Fund Program

5 A. There shall be an Alternative Fuel Vehicle Revolving Loan Fund Program
6 within the Department of **Energy and** Natural Resources through which the state
7 may provide financial assistance to a local governing authority in the manner
8 provided for in this Subpart for the costs of converting all or a portion of the local
9 governing authority's fleet of motor vehicles to qualified clean fuel vehicles
10 propelled by an alternative fuel.

11 B. The Department of **Energy and** Natural Resources may promulgate rules
12 and regulations as are necessary to implement the provisions of this Subpart, in
13 accordance with the Administrative Procedure Act, subject to oversight by the Senate
14 Committee on Natural Resources and the House Committee on Natural Resources
15 and Environment.

16 §1419.4. Alternative Fuel Vehicle Revolving Loan Fund

17 A. There is hereby established the Alternative Fuel Vehicle Revolving Loan
18 Fund, hereinafter referred to in this Subpart as the "alternative fuels loan fund",
19 which shall be maintained, operated, and administered by the Department of **Energy**
20 **and** Natural Resources.

21 * * *

22 D.(1) The money in the Alternative Fuel Vehicle Revolving Loan Fund shall
23 be appropriated by the legislature and shall be used by the Department of **Energy**
24 **and** Natural Resources solely for administrative costs of and the purposes of the
25 Alternative Fuel Vehicle Revolving Loan Fund Program as provided for in this
26 Subpart.

27 * * *

28 §1419.5. Use of the Alternative Fuel Vehicle Revolving Loan Fund

29 Money from the Alternative Fuel Vehicle Revolving Loan Fund may be used:

30 (1) To provide loans at or below market interest rates for a period not to

1 exceed ten years from the completion date of the conversion of all or a portion of
2 local governing authorities' fleets of motor vehicles to qualified clean fuel vehicles
3 propelled by alternative fuels which are financed by such loans. All such loans shall
4 be subject to approval by the Department of Energy and Natural Resources.

5 * * *

6 (4) To provide a source of revenue or security for the payment of principal,
7 interest, or premium on revenue or general obligation bonds or other evidences of
8 indebtedness issued by the Department of Energy and Natural Resources, or any
9 political subdivision, governmental agency, public corporation, public trust, or any
10 other entity having the authority to issue debt for or on behalf of the state, if the net
11 proceeds of such debt instruments are deposited in the alternative fuels loan fund, or
12 are used to finance a fleet conversion approved by the Department of Energy and
13 Natural Resources or are used to refund any obligation which finances a fleet
14 conversion approved under this Subpart.

15 §1419.6. Loan conditions and repayment

16 A. Upon approval of an application by the Department of Energy and
17 Natural Resources, the department may lend amounts on deposit in the Alternative
18 Fuel Vehicle Revolving Loan Fund to a local governing authority to finance all or
19 a portion of the cost of a fleet conversion. Such loans are subject to the borrower's
20 compliance with the conditions of the loan, as well as any applicable rules or
21 regulations promulgated by the department.

22 B. Prior to making a loan, the Department of Energy and Natural Resources
23 shall determine that the clean fuel vehicles will be fully insured and that the local
24 governing authority has the ability to repay the loan, and may require a dedicated
25 source of repayment and impose additional requirements as the department deems
26 necessary.

27 * * *

28 D.(1) The interest rate on each loan shall be established by the secretary of
29 the Department of Energy and Natural Resources, subject to any limitations
30 provided for federal assistance under a state transportation plan or other limitations

1 required for the use of other federal funds by applicable federal law. Criteria to be
 2 considered in the development of such interest rate shall include but are not limited
 3 to administrative costs of the program, program priorities established by the
 4 department, the creditworthiness of the applicant, the cost of bonds issued to provide
 5 loan funding, and the long-term viability of the Alternative Fuel Vehicle Revolving
 6 Loan Fund.

7 (2) The interest rate for a loan may include any additional rate that the
 8 Department of Energy and Natural Resources considers reasonable or necessary to
 9 provide a reserve for the repayment of the loan. The additional rate may be fixed or
 10 variable, may be calculated according to a formula, and may differ from the rate
 11 established for any other loans.

12 E. Each loan shall be evidenced by a bond, note, or other evidence of
 13 indebtedness of the borrower, in a form prescribed or approved by the Department
 14 of Energy and Natural Resources. Such evidences of indebtedness shall be
 15 consistent with the provisions of this Subpart and, if federal funds are used,
 16 consistent with the terms of the appropriate federal act, and are not required to be
 17 identical for all loans.

18 * * *

19 §4064.4. Powers of commission

20 * * *

21 E. The commission may perform such tasks relative to sewerage and water
 22 systems as it may be authorized to perform by the Louisiana Department of Health,
 23 the Department of Environmental Quality, the Department of Transportation and
 24 Development, the Department of Public Service, and the Department of Energy and
 25 Natural Resources. The aforesaid departments shall be authorized to assist the
 26 commission in the enforcement of its promulgated rules and regulations, to notify
 27 and advise the commission of any condition, hazard, or other factor which may affect
 28 public health, and to make such recommendations to the commission which may
 29 affect the correction of said condition, hazard, or factor. Each aforesaid department
 30 shall be authorized to execute with the commission a letter of understanding and/or

1 agreement, the intent of which shall be to assure no parallel, preemptive, and/or
2 converse enforcement or regulatory action by either entity.

3 * * *

4 J. In exercising its authority under this Subpart, the commission shall be
5 subject to the authority of the Department of Health and Human Resources, the
6 Department of Environmental Quality, and the Department of **Energy and** Natural
7 Resources.

8 * * *

9 §4065.3. Powers of commission

10 * * *

11 E. The commission may perform such tasks relative to sewerage and water
12 systems as it may be authorized to perform by the Louisiana Department of Health,
13 the Department of Environmental Quality, and the Department of **Energy and**
14 Natural Resources.

15 * * *

16 I. In exercising its authority under this Subpart, the commission shall be
17 subject to the authority of the Louisiana Department of Health, the Department of
18 Environmental Quality, and the Department of **Energy and** Natural Resources.

19 * * *

20 §4522. Malodorants required

21 All natural and other odorless gases shall be malodorized by the use of a
22 malodorant in accordance with pipeline safety rules and regulations promulgated by
23 the assistant secretary of the office of conservation of the Department of **Energy and**
24 Natural Resources, or in the case of liquefied petroleum gas in accordance with R.S.
25 40:1846(B)(5) and (6).

26 §4523. Method of use and containers and equipment regulated

27 The method of using the malodorant and the containers and equipment used
28 in connection therewith are under the direction and subject to the approval of the
29 assistant secretary of the office of conservation of the Department of **Energy and**
30 Natural Resources.

1 §4524. Enforcement; rules and regulations

2 The office of conservation of the Department of **Energy and** Natural
3 Resources shall enforce the provisions of this Subpart. The assistant secretary of the
4 office may prescribe any rules and regulations and conduct such inspections as he
5 deems necessary to carry out the purposes of this Subpart.

6 In addition to the rights, powers, and duties granted under this Subpart, the
7 assistant secretary shall exercise, relative to this Subpart, all of the rights, powers,
8 and duties granted under R.S. 30:501 et seq.; however, the provisions of R.S. 30:544
9 shall not apply to this Subpart.

10 Whenever the assistant secretary shall find any violation of this Subpart, the
11 assistant secretary may report such violation and submit the evidence thereof to the
12 district attorney of the district or parish court having jurisdiction over the area
13 wherein the violation occurred.

14 * * *

15 §4526. Construction of Subpart, surrender of powers

16 Nothing contained in this Subpart shall be construed as surrendering to the
17 office of conservation of the Department of **Energy and** Natural Resources any of
18 the powers of supervision, regulation, or control over any local public utility by any
19 town or city, other than those specifically provided herein.

20 * * *

21 §4546.21. Construction contracts

22 * * *

23 B. Whenever such a project includes a pipeline facility that is publicly bid,
24 the authority or the participating political subdivision in which the project will be
25 completed may require, as part of the bidding process, the prequalification of
26 contractors and subcontractors to ensure compliance with the certification
27 requirements of 49 CFR 192.801 et seq., as mandated by the United States
28 Department of Transportation Pipeline and Hazardous Materials Safety
29 Administration or the Louisiana Department of **Energy and** Natural Resources. Any
30 such project subject to prequalification shall otherwise comply with the provisions

1 of R.S. 38:2211 et seq. and any other applicable provisions regarding public
2 procurement or public bidding.

3 Section 9. R.S. 34:3116(B) and 3304(B) are hereby amended and reenacted to read
4 as follows:

5 §3116. Coordination and cooperation

6 * * *

7 B. The executive director shall take affirmative steps to fully coordinate all
8 aspects of the authority development program with the secretary of the Department
9 of **Energy and** Natural Resources or his designee charged with the development of
10 the coastal zone management plan.

11 * * *

12 §3304. Coordination and cooperation

13 * * *

14 B. The secretary of the Department of Transportation and Development is
15 authorized to call upon the Department of Economic Development, the Department
16 of **Energy and** Natural Resources, the Board of Commissioners of the Port of Iberia,
17 and all other port commissions and districts and state agencies, departments, and
18 political subdivisions of the state for full and complete cooperation and assistance
19 in carrying out the provisions of this Chapter, and all such entities are hereby
20 directed and it shall be their duty to cooperate and assist the department to the fullest
21 possible extent.

22 * * *

23 Section 10. R.S. 36:4(A)(7), 8.1(C)(11), 351(A), (B), and (C)(1), 353, 354(A)(13),
24 (B)(1)(b), (4), (6), and (8), 356(A) and (B), 357(A), 358(A), the introductory paragraph of
25 359(A), the introductory paragraph of 359(B), 359(B)(1) and (2), and (C), 629(J)(2) through
26 (8), and 957(A) are hereby amended and reenacted to read as follows:

27 §4. Structure of executive branch of state government

28 A. In accordance with the provisions of Article IV, Section 1 and Article
29 XIV, Section 6 of the Constitution of Louisiana, all offices, boards, commissions,
30 agencies, and instrumentalities of the executive branch of state government, whether

1 constitutional or statutory, and/or their functions, powers, duties, and responsibilities
 2 shall be allocated, either in the Act by which this Title was created or by legislation
 3 enacted subsequent thereto, within the departments listed in this Section, except as
 4 provided in Subsections B and C of this Section, and in order to comply with this
 5 constitutional mandate, the agencies of the executive branch of state government
 6 hereinafter enumerated, whether heretofore created by the constitution or by statute,
 7 and/or their functions, powers, duties, and responsibilities are allocated, in the
 8 manner hereinafter set forth in this Title, within the following designated
 9 departments:

10 * * *

11 (7) Department of Energy and Natural Resources.

12 * * *

13 §8.1. Litigation oversight; reports to the legislature

14 * * *

15 C. The provisions of this Section shall apply to any civil action filed by the
 16 following departments or offices, including offices and agencies thereof, collectively
 17 referred to in this Section as "agency":

18 * * *

19 (11) Department of Energy and Natural Resources.

20 * * *

21 §351. Department of Energy and Natural Resources; creation, domicile;
 22 composition; purposes and functions

23 A. The Department of Energy and Natural Resources is created and shall be
 24 a body corporate with the power to sue and be sued. The domicile of the department
 25 shall be in Baton Rouge.

26 B. The Department of Energy and Natural Resources, through its offices and
 27 officers, shall be responsible for the conservation, management, and development of
 28 water, minerals, and other such natural resources of the state, including coastal
 29 management, except timber and fish and wildlife and their habitats.

30 C.(1) The Department of Energy and Natural Resources shall be composed

1 of the executive office of the secretary, the office of management and finance, the
 2 office of conservation, the office of mineral resources, the office of coastal
 3 management, the Oilfield Site Restoration Commission, and such other offices as
 4 shall be created by law.

5 * * *

6 §353. Secretary of natural resources

7 There shall be a secretary of natural resources, who shall be appointed by the
 8 governor with consent of the Senate and who shall serve at the pleasure of the
 9 governor at a salary fixed by the governor, which salary shall not exceed the amount
 10 approved for such position by the legislature while in session. The secretary shall
 11 serve as the executive head and chief administrative officer of the Department of
 12 **Energy and** Natural Resources and shall have the responsibility for the policies of
 13 the department except as otherwise provided by this Title, and for the administration,
 14 control, and operation of the functions, programs, and affairs of the department;
 15 provided that the secretary shall perform his functions under the general control and
 16 supervision of the governor. The secretary shall be an ex officio member of the State
 17 Mineral and Energy Board.

18 §354. Powers and duties of secretary of natural resources

19 A. In addition to the functions, powers, and duties otherwise vested in the
 20 secretary by law, he shall:

21 * * *

22 (13) Contract, if the secretary so desires, or, if the secretary deems necessary,
 23 designate one of the offices within the department or its assistant secretary, under the
 24 secretary's supervision, to do so, with private or public research organizations for the
 25 purchase, out of funds available to the Department of **Energy and** Natural
 26 Resources, of services in scientific, economic, and technological research, including
 27 but not limited to surveys, studies, and experiments with a view toward protecting
 28 and replenishing the natural resources of the state under the jurisdiction of the
 29 Department of **Energy and** Natural Resources, toward preventing the waste,
 30 wasteful use, and wasteful utilization thereof, except as defined in R.S. 30:3, toward

1 preventing the use of said natural resources in such a manner and in such quantities
2 as will threaten with premature exhaustion, extinction, and destruction of the supply
3 of these resources in the state, and toward the energy policy of this state, and to
4 prepare and implement plans and programs in relation thereto.

5 * * *

6 B. The secretary shall have authority to:

7 (1)(a) * * *

8 (b) All of the above are to be accomplished in accordance with applicable
9 civil service laws, rules, and regulations, and with policies and rules of the
10 Department of **Energy and** Natural Resources, and all are subject to budgetary
11 control and applicable laws.

12 * * *

13 (4) Contract upon such terms as he may agree upon, for legal, financial,
14 engineering, and other professional services necessary or expedient in the conduct
15 of the affairs of the Department of **Energy and** Natural Resources under the
16 provisions of this Chapter.

17 * * *

18 (6) Represent, or designate the assistant secretary of the office of
19 conservation to represent, the state in all matters involving or affecting the interest
20 of the state and its residents, relative to energy and natural resources within the
21 jurisdiction of the Department of **Energy and** Natural Resources before all federal
22 agencies, offices, and officials, and congressional committees, and in all judicial
23 actions arising out of the proceedings of such agencies, offices, and committees or
24 in relation thereto. Those employed or contracted with as provided by this Section
25 shall be entitled to represent the state and the secretary and to appear in the courts
26 and before agencies of this state or the agencies, officials, and courts of the United
27 States and of other states, to carry out the purposes of this Chapter.

28 * * *

29 (8) Obtain from the federal government and its agencies, the offices of the
30 Department of **Energy and** Natural Resources, and other state agencies any

1 information and data collected by such entities relating to energy, natural resources,
 2 or the environment, upon mutually agreeable terms and conditions or as required by
 3 law; however, information and data subject to nondisclosure under R.S. 44:4 shall
 4 maintain such status while in the custody of the secretary.

5 * * *

6 §356. Undersecretary; functions; office of management and finance

7 A. There shall be an undersecretary of the Department of **Energy and**
 8 Natural Resources, who shall be appointed by the governor with consent of the
 9 Senate and who shall serve at the pleasure of the governor at a salary fixed by the
 10 governor, which salary shall not exceed the amount approved for such position by
 11 the legislature while in session. The undersecretary shall be directly responsible to
 12 and shall perform his functions under the supervision and control of the secretary.

13 B. The undersecretary shall direct and be responsible for the functions of the
 14 office of management and finance within the Department of **Energy and** Natural
 15 Resources. In such capacity he shall be responsible for accounting and budget
 16 control, procurement and contract management, data processing, management and
 17 program analysis, personnel management, and grants management for the
 18 department and all of its offices, including all agencies transferred to the Department
 19 of **Energy and** Natural Resources, except as otherwise specifically provided in this
 20 Title. He shall employ, appoint, remove, assign, and promote such personnel as is
 21 necessary for the efficient administration of the office of management and finance
 22 and the performance of its powers, duties, functions, and responsibilities, in
 23 accordance with applicable civil service laws, rules, and regulations, and with
 24 policies and rules of the department, all subject to budgetary control and applicable
 25 laws. The undersecretary shall exercise all powers and authority granted to him in
 26 this Title subject to the overall direction and control of the secretary.

27 * * *

28 §357. Assistant secretaries

29 A. Each office within the Department of **Energy and** Natural Resources,
 30 except the office of management and finance, shall be under the immediate

1 supervision and direction of an assistant secretary. The assistant secretary of each
 2 such office shall be appointed by the governor with the consent of the Senate and
 3 shall serve at the pleasure of the governor. Each assistant secretary shall be paid a
 4 salary which shall be fixed by the governor, which salary shall not exceed the salary
 5 approved for such position by the legislature while in session. The commissioner of
 6 conservation shall serve as the assistant secretary for the office of conservation and
 7 shall be selected in accordance with law.

8 * * *

9 §358. Offices; purposes and functions

10 A. The purposes for which the offices of the Department of **Energy and**
 11 Natural Resources are created shall be as set forth in this Section.

12 * * *

13 §359. Transfer of agencies and functions to Department of **Energy and** Natural
 14 Resources

15 A. The following agencies are transferred to the Department of **Energy and**
 16 Natural Resources and shall exercise and perform their powers, duties, functions, and
 17 responsibilities as provided by law:

18 * * *

19 B. The following agencies are transferred to the Department of **Energy and**
 20 Natural Resources and shall exercise and perform their powers, duties, functions, and
 21 responsibilities in accordance with the provisions of R.S. 36:802:

22 (1) State Department of Conservation (Article V, Section 18 and Article VI,
 23 Section 1(c) of the 1921 Constitution of Louisiana made statutory by Article XIV,
 24 Section 16(A)(2) and (3) of the 1974 Constitution of Louisiana; Part I of Chapter 1
 25 of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950 and other
 26 provisions of Title 30 that directly apply to the department), except that the secretary,
 27 deputy secretary, and undersecretary of the department shall have no authority to
 28 exercise, review, administer, or implement the quasi judicial, licensing, permitting,
 29 regulatory, rulemaking, or enforcement powers or decisions of the assistant secretary
 30 of the office of conservation. The assistant secretary shall be authorized to employ,

1 appoint, remove, assign, and promote such personnel as is necessary for the efficient
2 administration required in making these decisions, in accordance with applicable
3 civil service laws, rules, and regulations, and with policies and rules, subject to
4 budgetary control of the Department of **Energy and** Natural Resources, and
5 applicable laws.

6 (2) State Mineral and Energy Board (R.S. 30:121 et seq.), except the
7 secretary of the Department of **Energy and** Natural Resources shall be an ex officio
8 member of the State Mineral and Energy Board. The State Mineral and Energy
9 Board shall retain the authority to lease for development and production of minerals,
10 oil, and gas, any lands belonging to the state, or the title to which is in the public,
11 including road beds, water bottoms, and land adjudicated to the state at tax sale. The
12 State Mineral and Energy Board shall retain supervision of all mineral leases granted
13 by the state, and it shall retain general authority to take action for and on behalf of
14 and to protect the interests of the state in accordance with the provisions of Title 30
15 of the Louisiana Revised Statutes of 1950, as amended, and applicable laws.

16 * * *

17 C. The Oilfield Site Restoration Commission (R.S. 30:80 et seq.) is placed
18 within the Department of **Energy and** Natural Resources and shall perform its
19 powers, duties, functions, and responsibilities in accordance with the provisions of
20 R.S. 36:901 et seq.

21 * * *

22 §629. Transfer of boards, commissions, departments, and agencies to the
23 Department of Agriculture and Forestry

24 * * *

25 J. The Louisiana Forestry Commission (Article IX, Section 8(B) and (C) of
26 the Constitution of Louisiana and Chapter 28 of Title 3 of the Louisiana Revised
27 Statutes of 1950) hereafter shall be within the Department of Agriculture and
28 Forestry in accordance with the provisions of R.S. 36:802, except as otherwise
29 provided in this Subsection:

30 * * *

1 (2) All employees of the office of forestry of the Department of **Energy and**
2 Natural Resources are transferred to the office of forestry of the Department of
3 Agriculture and Forestry.

4 (3) An appropriate percentage of the administrative employee positions, and
5 the employees holding those positions, of the Louisiana Forestry Commission which
6 were transferred to the Department of **Energy and** Natural Resources are transferred
7 to the Department of Agriculture and Forestry. The secretary of natural resources and
8 the commissioner of agriculture and forestry shall jointly determine the appropriate
9 number of administrative positions and personnel to be transferred. This
10 determination and the resulting transfer shall be effected no later than the last day of
11 September of 1986.

12 (4) All funds appropriated to the Louisiana Forestry Commission and the
13 office of forestry of the Department of **Energy and** Natural Resources shall be
14 transferred to those entities in the Department of Agriculture and Forestry.

15 (5) Any appropriation for Fiscal Year 1986-1987 to the Louisiana Forestry
16 Commission or the office of forestry within the Department of **Energy and** Natural
17 Resources shall be deemed to be appropriated to those entities within the Department
18 of Agriculture and Forestry.

19 (6) All property and facilities owned and operated by, or leased by or for the
20 Louisiana Forestry Commission or the office of forestry of the Department of
21 **Energy and** Natural Resources are transferred to those entities within the
22 Department of Agriculture and Forestry.

23 (7) The fleet of airplanes operated by the Louisiana Forestry Commission and
24 the office of forestry of the Department of **Energy and** Natural Resources is
25 specifically transferred to the Department of Agriculture and Forestry. All airplanes
26 operated by the Department of Agriculture and Forestry shall be under the exclusive
27 jurisdiction of that department. Subject to the provisions of R.S. 2:1 et seq., the
28 department may provide guidelines and procedures for the use and operation of its
29 aircraft.

30 (8) The office of forestry of the Department of Agriculture and Forestry shall

1 be the successor of the office of forestry of the Department of **Energy and** Natural
 2 Resources. For purposes of the transfer of functions of the office of forestry from the
 3 Department of **Energy and** Natural Resources to the Department of Agriculture and
 4 Forestry, the Department of Agriculture and Forestry shall be the successor to the
 5 Department of **Energy and** Natural Resources. All unfinished business of the former
 6 office and of the former department related thereto shall be completed by, all
 7 references in laws and documents to the former office and to the former department
 8 related thereto shall be deemed to refer to, and all obligations of the former office
 9 and of the former department related thereto shall be the obligations of the successor
 10 office and department. All legal proceedings of the former office and of the former
 11 department related thereto shall be continued in the name of such former office and
 12 department and further proceedings shall be in the name of the successor office and
 13 department without the necessity for amendment of any document.

14 * * *

15 §957. Effective date of certain transfers and abolitions; continued merger and
 16 consolidation within departments

17 A. The transfer or abolition of each agency transferred or abolished by this
 18 Title, which agency or the functions thereof are transferred to one of the following
 19 departments, shall be effective upon the effective date of this Part: the Department
 20 of State Civil Service, the Department of Economic Development, the Department
 21 of Culture, Recreation and Tourism, the Louisiana Workforce Commission, the
 22 Department of **Energy and** Natural Resources, the Department of Public Safety and
 23 Corrections, the Department of Revenue, the Department of Transportation and
 24 Development, and the Department of Wildlife and Fisheries.

25 * * *

26 Section 11. R.S. 37:711.4(E), 1377(K)(1), and 3151(1) are hereby amended and
 27 reenacted to read as follows:

28 §711.4. Board; appointments; terms

29 * * *

30 E. On or after January 1, 2013, no employee of the Department of **Energy**

1 and Natural Resources, including but not limited to the office of conservation, or the
2 Department of Environmental Quality shall be appointed to the board.

3 * * *

4 §1377. Definitions; exceptions

5 * * *

6 K. Gas Fitting. "Gas fitting" means the work or business of installing,
7 repairing, improving, altering, or removing natural gas piping, fittings, valves, or
8 tanks used for conveying fuel gas for appliances on or in premises or in buildings
9 annexed to immovable property. For purposes of this Chapter, gas fitting does not
10 include the following:

11 (1) The installation or maintenance of piping by any entity of a municipal or
12 gas district system that is subject to the regulatory authority of the Public Service
13 Commission, the New Orleans City Council, or the office of pipeline safety in the
14 Department of Energy and Natural Resources.

15 * * *

16 §3151. Definitions

17 As used in this Chapter, the following words shall have the meaning ascribed
18 to them in this Section unless the context clearly indicates otherwise:

19 (1) "Assistant Secretary" means the assistant secretary of the office of
20 environmental affairs of the Department of Energy and Natural Resources.

21 * * *

22 Section 12. R.S. 38:25(A), 327(F), 3087.134(E)(5), 3092(7), 3097.3(B), the heading
23 of 3098.2, the introductory paragraph of 3098.6(A), and 3098.6(A)(2) are hereby amended
24 and reenacted to read as follows:

25 §25. Exemptions for other programs; additional requirements

26 A. Where the impoundment of liquid substances or hazardous wastes and
27 materials by dikes, dams, or barriers is permitted or regulated under the Department
28 of Energy and Natural Resources, that office shall adopt rules and regulations for
29 the construction, operation and maintenance of said facilities in accordance with the
30 requirements, rules and regulations promulgated under this Chapter and such

1 impoundments are exempted from the provisions of this Chapter.

2 * * *

3 §327. Lake Borgne Basin Levee District Board of Commissioners; powers and
4 duties

5 * * *

6 F. The board shall operate and maintain the Violet Siphon in accordance with
7 an operation and maintenance plan developed jointly by the Lake Borgne Basin
8 Levee District and the Department of **Energy and** Natural Resources, office of
9 coastal restoration and management.

10 * * *

11 §3087.134. Board of commissioners; tenure; replacement; compensation

12 * * *

13 E. In addition, the following may serve at their pleasure as ex officio
14 nonvoting members of the board and shall not be considered in determining a
15 quorum for the purpose of board meetings:

16 * * *

17 (5) The secretary of the Department of **Energy and** Natural Resources or his
18 designee.

19 * * *

20 §3092. Definitions

21 Unless the context otherwise requires, the following terms shall have the
22 following meanings for purposes of this Chapter:

23 * * *

24 (7) "Office" means the office of conservation, Department of **Energy and**
25 Natural Resources.

26 * * *

27 §3097.3. Commissioner of conservation; powers and duties

28 * * *

29 B. The commissioner is authorized to employ, assign, and remove personnel,
30 including a deputy, within the Department of **Energy and** Natural Resources, office

1 of conservation, to provide administrative and technical staff functions the
2 commissioner deems necessary to carry out the powers, functions, and duties under
3 this Chapter. Personnel actions shall be in accordance with applicable civil service
4 laws, rules, and regulations, and with the policies and rules of the department, all
5 subject to budgetary control and applicable laws.

6 * * *

7 §3098.2. Powers of the Department of **Energy and** Natural Resources, office of
8 conservation resources

9 * * *

10 §3098.6. Advisory committee

11 A. The Department of **Energy and** Natural Resources is hereby authorized
12 to appoint a committee to serve in an advisory capacity and to make
13 recommendations for the regulation and control of water well drillers as defined in
14 this Chapter. This advisory committee shall consist of the following members:

15 * * *

16 (2) The secretary of the Department of **Energy and** Natural Resources or his
17 designee.

18 * * *

19 Section 13. R.S. 39:99.29(A), 253(A)(2), 2007(D)(1), and 2177(D) are hereby
20 amended and reenacted to read as follows:

21 §99.29. Governing board; membership; terms; compensation and expenses;
22 chairman and vice chairman; quorum; employees, agents; limitation
23 of liability

24 A. The board of the corporation shall exercise all powers, rights, and duties
25 conferred by this Subpart or other provisions of law upon the corporation. The board
26 shall consist of the governor, the state treasurer, attorney general, president of the
27 Senate and speaker of the House of Representatives, chairman of the Coastal
28 Protection and Restoration Authority Board, secretary of the Department of **Energy**
29 **and** Natural Resources, secretary of the Department of Transportation and
30 Development, or their designees, and seven members appointed by the governor with

1 one member appointed from each congressional district and the remaining member
 2 or members appointed from the state at large. The members of the board who are
 3 appointed by the governor shall represent the state's diverse population as near as
 4 practicable, and shall have a background and significant experience in financial
 5 management and investments. The members of the board appointed by the governor
 6 shall be subject to Senate confirmation and shall serve at the pleasure of the governor
 7 for terms of four years each, or until their successors shall have been appointed and
 8 qualified, as designated by the governor. Any appointment to fill a vacancy on the
 9 board shall be made for the unexpired term of the member whose death, resignation,
 10 or removal created such vacancy. Members on the board may be appointed to an
 11 additional term.

12 * * *

13 §253. Development and coordination of policy

14 A.(1) * * *

15 (2) The division of administration shall use this information to develop and
 16 maintain a database on all state buildings and facilities and their associated energy
 17 use, energy demand, and energy cost. The Department of **Energy and** Natural
 18 Resources shall provide energy management training upon request to certain state
 19 personnel, such as building managers, financial administrators, and others.

20 * * *

21 §2007. Responsibilities of the commissioner of administration; training; reporting

22 * * *

23 D.(1) The commissioner shall conduct a training program at least
 24 semiannually to acquaint small entrepreneurships with state procurement and public
 25 contract proposal and bidding practices. This shall include all state procurements
 26 which are governed by Chapter 10 of Title 38, Chapter 17 of this Title, and Parts
 27 XIII and XIII-A of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950.
 28 The commissioner shall also secure the assistance of staff from either the
 29 Department of Transportation and Development, Department of **Energy and** Natural
 30 Resources, or Department of Environmental Quality who are knowledgeable about

1 state procurements undertaken pursuant to Chapter 10 of Title 38 and Parts XIII and
2 XIII-A of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950, for the
3 purpose of providing practical advice to small entrepreneurships relative to
4 procurements and public contracts governed by such law.

5 * * *

6 §2177. Responsibilities of the commissioner of administration; training; reporting

7 * * *

8 D. The commissioner shall conduct a training program at least semiannually
9 to acquaint veteran and service-connected disabled veteran-owned small
10 entrepreneurships with state procurement and public contract proposal and bidding
11 practices. This shall include all state procurements which are governed by Chapter
12 10 of Title 38, Chapter 17 of this Title, and Parts XIII and XIII-A of Chapter 1 of
13 Title 48 of the Louisiana Revised Statutes of 1950. The commissioner shall also
14 secure the assistance of staff from the Louisiana Department of Veterans Affairs for
15 veteran-specific information and data, and either the Department of Transportation
16 and Development, Department of **Energy and** Natural Resources, or Department of
17 Environmental Quality who are knowledgeable about state procurements undertaken
18 pursuant to Chapter 10 of Title 38 and Parts XIII and XIII-A of Chapter 1 of Title
19 48 of the Louisiana Revised Statutes of 1950, for the purpose of providing practical
20 advice to veteran and service-connected disabled veteran-owned small
21 entrepreneurships relative to procurements and public contracts governed by such
22 law.

23 * * *

24 Section 14. R.S. 40:1730.22(F), 1730.28.4(B)(1), 1892, 1893, and 1894 are hereby
25 amended and reenacted to read as follows:

26 §1730.22. Louisiana State Uniform Construction Code Council; membership;
27 function of council; meeting requirements; immunity

28 * * *

29 F.(1) Training and technical assistance in the implementation of the
30 Louisiana State Uniform Construction Code residential and commercial building

1 energy code provisions shall be the responsibility of the technology assessment
2 division of the Department of **Energy and** Natural Resources in collaboration with
3 the council, as provided for in Subsection C of this Section.

4 (2) The technology assessment division of the Department of **Energy and**
5 Natural Resources shall continue training and technical assistance as funding allows.

6 * * *

7 §1730.28.4. Energy Code Commission: members; purpose; procedure; termination

8 * * *

9 B. In addition to the voting members of the commission, the commission
10 shall be composed of the following nonvoting members:

11 (1) The secretary of the Department of **Energy and** Natural Resources or his
12 designee.

13 * * *

14 §1892. Malodorants required

15 All natural and other odorless gases shall be malodorized by the use of a
16 malodorant in accordance with pipeline safety rules and regulations promulgated by
17 the assistant secretary of the office of conservation of the Department of **Energy and**
18 Natural Resources, or in the case of liquefied petroleum gas in accordance with R.S.
19 40:1846(B)(5) and (6).

20 §1893. Method of use and containers and equipment regulated

21 The method of using the malodorant and the containers and equipment used
22 in connection therewith are under the direction and subject to the approval of the
23 office of conservation of the Department of **Energy and** Natural Resources.

24 §1894. Enforcement of Part; rules and regulations

25 The office of conservation of the Department of **Energy and** Natural
26 Resources shall enforce the provisions of this Part. The assistant secretary of the
27 office of conservation may prescribe any rules and regulations on this subject
28 necessary to carry out the purposes of this Part. In addition to the rights, powers, and
29 duties granted under this Part, the assistant secretary shall exercise relative to this
30 Part all of the rights, powers, and duties granted under R.S. 30:501 et seq.; however,

1 the provisions of R.S. 30:544 shall not apply to this Part.

2 Section 15. R.S. 41:642(A)(2)(b) and (B), 1602(B)(1), 1701.1(C) and (D),
3 1702(D)(1) and (2)(a)(i), the introductory paragraph of (ii), (H), and (I), 1703(B), 1712(D),
4 1731, 1732(A), 1733(B) and (C), and the introductory paragraph of 1734(A) are hereby
5 amended and reenacted to read as follows:

6 §642. Sixteenth section lands; erosion; title and revenues

7 A.(1) * * *

8 (2)(a) * * *

9 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, in
10 the event sixteenth section lands are comprised entirely of state-owned water
11 bottoms and no school indemnity lands were provided for such sixteenth section
12 lands, all proceeds received by the state from production and other revenues
13 generated after July 1, 2007, from any oil and gas lease or other contract granted by
14 the state in its sovereign capacity attributable to the sixteenth section lands shall be
15 credited, subject to an appropriation specifically for proceeds attributable to Fiscal
16 Years 2007-2008, 2008-2009, and 2009-2010, to the account of the school fund of
17 the parish in which such sixteenth section lands are located. Beginning in Fiscal Year
18 2010-2011 and thereafter, such proceeds shall be credited to the account of the
19 current school fund of the parish in which such sixteenth section lands are located.
20 The secretary of the Department of **Energy and** Natural Resources shall certify to
21 the treasurer the amount of proceeds to be credited pursuant to this Subparagraph.

22 B. Proof of the extent of erosion or subsidence which may have occurred
23 after the title to the sixteenth section land or indemnity lands vested in the state as
24 trustee for the benefit of the school children of the townships in which such lands are
25 located shall be made by the school board having an interest therein to the
26 Department of **Energy and** Natural Resources and shall consist of a certified map
27 or plat of survey prepared by a professional land surveyor qualified and currently
28 licensed by the Louisiana Professional Engineering and Land Surveying Board,
29 showing the exact extent of land claimed to be lost through erosion or subsidence
30 and by such evidence as may be required by the secretary showing the extent of the

1 erosion or subsidence claimed.

2 * * *

3 §1602. Louisiana Archaeological Survey and Antiquities Commission

4 * * *

5 B.(1) The commission shall be composed of eleven members. The person
6 designated as state archaeologist and one representative each from the Department
7 of Culture, Recreation and Tourism and the Department of **Energy and** Natural
8 Resources, and the Governor's Commission on Indian Affairs shall be ex officio
9 voting members of the commission. The governor shall appoint seven members to
10 the commission from a list of two nominees submitted to him by the ex officio
11 members for each appointment he is to make, provided that at least one appointment
12 shall be a member of the Louisiana Archaeological Society.

13 * * *

14 §1701.1. State Land Office; powers, duties, functions, and responsibilities

15 * * *

16 C. Subject to the approval of the commissioner of administration, the
17 governor, the attorney general, the Department of Wildlife and Fisheries, and the
18 Department of **Energy and** Natural Resources, the State Land Office shall develop
19 and promulgate a comprehensive state master plan for the administration of state
20 lands and water bottoms and shall ensure that all public lands and water bottoms are
21 protected, administered, and conserved in a manner consistent with the constitution.

22 D. The State Land Office shall identify all public lands and water bottoms
23 within the state and develop and maintain a current master list of those lands and
24 water bottoms. All state agencies, including but not limited to Department of
25 Culture, Recreation and Tourism, the Department of **Energy and** Natural Resources,
26 the Office of Coastal Protection and Restoration, the Department of Wildlife and
27 Fisheries, the Department of Transportation and Development, the Louisiana
28 Geological Survey, the state's colleges and universities, all levee boards, drainage
29 boards, parish governing authorities, and any districts created under the jurisdiction
30 of levee boards, drainage boards, or parish governing authorities, shall cooperate

1 with the State Land Office in developing the master list.

2 * * *

3 §1702. Reclamation of lands lost through erosion, compaction, subsidence, and sea
4 level rise; land acquisition for certain coastal projects; requirements

5 * * *

6 D. * * *

7 (1) The administrator of the State Land Office may issue a permit for the
8 carrying out of the work necessary to implement the recovery of the land lost through
9 erosion, compaction, subsidence, or sea level rise; however, no such permit shall be
10 issued until plans and specifications for such work have been first submitted to the
11 governing authority of the parish in which the proposed project is located, the
12 Department of Transportation and Development, the Department of Wildlife and
13 Fisheries, the Coastal Protection and Restoration Authority, and the Department of
14 Energy and Natural Resources for review and comment not less than sixty days
15 prior to the issuance of such permit. No permit shall be required for projects to
16 facilitate the development, design, engineering, implementation, operation,
17 maintenance, or repair of integrated coastal protection projects by the Coastal
18 Protection and Restoration Authority under R.S. 49:214.1 et seq. or other applicable
19 law or projects for the Atchafalaya Basin Program. Within sixty days of completion
20 of the reclamation project, the riparian owner shall submit to the State Land Office
21 proof of the extent of the land area actually reclaimed in the manner provided in
22 Subsection C of this Section for showing the submerged area, which map or plat
23 shall be employed for fixing the definitive boundary between the reclaimed land area
24 and the state water bottoms. Permits issued pursuant to these provisions shall be
25 effective for a period not to exceed two years from the date of issuance and shall
26 thereupon expire. All work remaining or any additional work may be completed only
27 by application in the manner provided by this Section.

28 (2)(a)(i) To facilitate the development, design, and implementation of
29 integrated coastal protection projects, including hurricane protection and flood
30 control, pursuant to R.S. 49:214.1 et seq., the executive director of the Coastal

1 Protection and Restoration Authority, after consultation with other state agencies,
 2 including the Department of **Energy and** Natural Resources and the State Land
 3 Office, may enter into agreements with owners of land contiguous to and abutting
 4 navigable water bottoms belonging to the state who have the right to reclaim or
 5 recover such land, including all oil and gas mineral rights, as provided in Subsection
 6 B of this Section, which agreements may establish in such owner the perpetual,
 7 transferrable ownership of all subsurface mineral rights to the then-existing coast or
 8 shore line. Such agreements may also provide for a limited or perpetual alienation
 9 or transfer, in whole or in part, to such owner of subsurface mineral rights owned by
 10 the state relating to the emergent lands that emerge from waterbottoms that are
 11 subject to such owner's right of reclamation in exchange for the owner's compromise
 12 of his ownership and reclamation rights within such area and for such time as the
 13 executive director deems appropriate and in further exchange for the owner's
 14 agreement to allow his existing property to be utilized in connection with the project
 15 to the extent deemed necessary by the executive director.

16 (ii) When land is acquired from any person by an "acquiring authority" as
 17 defined in R.S. 31:149, for the principal purpose of facilitating the development,
 18 design, and implementation of integrated coastal protection projects, including
 19 hurricane protection and flood control, by the state, its political subdivisions, or by
 20 the state and federal government, the executive director of the Coastal Protection and
 21 Restoration Authority, after consultation with other state agencies, including the
 22 Department of **Energy and** Natural Resources and the State Land Office, may, in
 23 accordance with rules and regulations adopted in accordance with the Administrative
 24 Procedure Act by the Coastal Protection and Restoration Authority after consultation
 25 with other state agencies, including the Department of **Energy and** Natural
 26 Resources and the State Land Office, enter into an agreement under this Section with
 27 respect to the ownership of minerals and other matters to the same extent as
 28 authorized under Item (i) of this Paragraph. In addition, such agreement shall, at a
 29 minimum, specify:

30 * * *

1 H. No reclamation by a riparian landowner shall be permitted if, in the
 2 determination of the Department of **Energy and** Natural Resources, the State Land
 3 Office, the Coastal Protection and Restoration Authority, or the attorney general,
 4 such activity would unreasonably obstruct or hinder the navigability of any waters
 5 of the state or impose undue or unreasonable restraints on the state rights which have
 6 vested in such areas pursuant to Louisiana law, and to that extent the land area
 7 sought to be reclaimed may be limited.

8 I. Any person aggrieved either by a substantive agency decision made
 9 pursuant to the provisions of this Section, including interlocutory decisions relating
 10 to boundaries and determinations of areas reclaimed, or by a failure of the agency to
 11 render such decisions timely, may seek immediate judicial review of the agency
 12 action. Proceedings for review of decisions by the Department of **Energy and**
 13 Natural Resources, the Coastal Protection and Restoration Authority, or the State
 14 Land Office may be instituted by filing a petition in the Nineteenth Judicial District
 15 Court within thirty days after mailing of notice of the final decision by the
 16 administrator or secretary. Any party may request and be granted a trial de novo.

17 * * *

18 §1703. Permits and licenses for encroachments other than reclamation projects

19 * * *

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

1 disposition, and encroachments thereon.

2 * * *

3 §1712. Leases and permits, grant or denial; title

4 * * *

5 D. When permit or lease applications involve projects over which the United
6 States Army Corps of Engineers, the Department of **Energy and** Natural Resources,
7 or any other federal or state agency asserts jurisdiction, and such governmental
8 agencies have, by public notice or regulations, established timetables for receipt of
9 objections, public hearings, or other proceedings, the office, to least inconvenience
10 the applicant and prevent multiple hearings, shall adopt and conform to such
11 timetables or evidentiary requirements and shall attempt to coordinate any public
12 hearing with such agencies whenever feasible. When the United States Army Corps
13 of Engineers or other interested agencies do not assert jurisdiction over a given
14 project, thirty days from date of published notice by the applicant shall be allowed
15 for receipt of objections in writing by the office.

16 * * *

17 §1731. Legislative findings

18 To ensure the viability of the state's natural resources, to provide a continuing
19 energy source for the citizens and businesses of Louisiana, to promote economic
20 development through job retention and creation in Louisiana, and to promote a clean
21 and lasting environment, the Louisiana Legislature finds that the state, through the
22 Department of **Energy and** Natural Resources, should promote the generation and
23 use of the renewable energy derived from wind.

24 §1732. Lease authority and royalties

25 A. Notwithstanding any other provision of law except Subsection B of this
26 Section, the State Mineral and Energy Board in conjunction with the secretary of the
27 Department of **Energy and** Natural Resources, shall have the authority to lease for
28 the exploration, development, or production of energy from wind any lands
29 belonging to the state or the title to which is held by the state, including water
30 bottoms, vacant state lands, and lands adjudicated to the state at tax sale, except

1 lands that form any portion of state highway right-of-way. The leases shall be
 2 granted through a public bid process which shall be promulgated by the adoption of
 3 rules and regulations by the State Mineral and Energy Board. All bonuses, rentals,
 4 royalties, payments, or other sums due the state as the lessor under the terms of
 5 leases granted under the provisions of this Subsection for the exploration,
 6 development, and production of energy from wind shall be paid to the office of
 7 mineral resources. Revenues received from these leases by the office of mineral
 8 resources shall be remitted to the state treasurer who, after compliance with Article
 9 VII, Section 9 of the state constitution, shall credit an amount equal to twenty-five
 10 percent of the revenues to the Wetlands Conservation and Restoration Fund and an
 11 amount equal to the seventy-five percent to the state general fund. The funds
 12 generated under leases granted under the provisions of this Section shall not be
 13 included in calculations for the Budget Stabilization Fund.

14 * * *

15 §1733. Award of state wind leases

16 * * *

17 B. After certification by the other state agencies, the State Mineral and
 18 Energy Board shall forward the applications and certification with copies of any
 19 other leases on the proposed location to the secretary of the Department of **Energy**
 20 **and** Natural Resources who shall evaluate whether the lands proposed for lease best
 21 support the exploration, development, or production of energy from wind. In
 22 evaluating the proposed lease, the secretary of the Department of **Energy and**
 23 Natural Resources shall consider the capability of the lease proposal to fulfill the
 24 intent of this Chapter, the environmental impact of the placement of wind turbines
 25 and other equipment necessary for the exploration, development, or production of
 26 energy from wind, the impact of the proposed lease on any other leases, including
 27 leases for the exploration or production of subsurface deems appropriate. When
 28 evaluating the proposed lease, the secretary of the Department of **Energy and**
 29 Natural Resources shall consult with the Department of Wildlife and Fisheries when
 30 the proposed lease lies within the confines of properties under the jurisdiction of the

1 Louisiana Wildlife and Fisheries Commission or the Department of Wildlife and
2 Fisheries and may consult any other state agency or governmental entity that may
3 have jurisdiction within the confines of the proposed lease.

4 C. If the secretary of the Department of **Energy and** Natural Resources
5 determines that a proposed lease for the exploration, development, or production of
6 energy from wind is appropriate he shall recommend to the State Mineral and Energy
7 Board that the board conduct a public bid process. If the secretary of Department of
8 **Energy and** Natural Resources determines that a proposed lease for the exploration,
9 development, or production of energy from wind is not appropriate, he shall notify
10 the State Mineral and Energy Board who shall then notify the applicant that no bid
11 process shall occur.

12 * * *

13 §1734. Powers and duties of the secretary of the Department of **Energy and** Natural
14 Resources

15 A. The secretary of the Department of **Energy and** Natural Resources shall
16 promulgate rules and regulations pursuant to the Administrative Procedure Act to
17 implement the provisions of this Chapter and to institute reasonable fees for services
18 performed by the department. The rules and regulations shall include all provisions
19 necessary to accomplish the intent of the legislature as stated in this Chapter and
20 shall provide for the following:

21 * * *

22 Section 16. R.S. 42:1113(D)(1)(a)(ii)(hh) and (6)(f), 1124(A)(2)(f), and
23 1266(C)(1)(f) are hereby amended and reenacted to read as follows:

24 §1113. Prohibited contractual arrangements; exceptions; reports

25 * * *

26 D.(1)(a)(i)

* * *

27 (ii) The provisions of this Subparagraph and other provisions which reference
28 this Item shall apply to the following persons:

29 * * *

30 (hh) The secretary, deputy secretary, undersecretary, and each assistant

1 secretary, or the equivalent position of the Department of Energy and Natural
2 Resources.

3 * * *

4 (6) The provisions of R.S. 42:1113(D)(1)(a)(i), R.S. 42:1113(D)(1)(b), and
5 other provisions which reference these provisions of law shall not apply to the
6 spouses and immediate family members of the deputy secretaries, undersecretaries,
7 assistant secretaries, or equivalent positions in the following agencies:

8 * * *

9 (f) Department of Energy and Natural Resources.

10 * * *

11 §1124. Financial disclosure; statewide elected officials; certain public servants

12 A. The following persons shall annually file a financial statement as provided
13 in this Section:

14 * * *

15 (2) The secretary of each of the following departments of state government:

16 * * *

17 (f) The Department of Energy and Natural Resources.

18 * * *

19 §1266. Required education; certain unclassified officials and employees

20 * * *

21 C.(1) This Section shall apply to each person serving in the state unclassified
22 service in one of the following positions:

23 * * *

24 (f) The secretary, deputy secretary, undersecretary, and each assistant
25 secretary, or an equivalent position of the Department of Energy and Natural
26 Resources.

27 * * *

28 Section 17. R.S. 44:4(10) is hereby amended and reenacted to read as follows:

29 §4. Applicability

30 This Chapter shall not apply:

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(10) To any records, data, writings, accounts, reports, letters, exhibits, pictures, photographs, drawings, charts, maps, or copies or memoranda thereof, whether written or oral, filed by or received from the Energy Information Administration of the United States Department of Energy by the secretary of the Department of **Energy and** Natural Resources or any official or employee in the Department of **Energy and** Natural Resources if nondisclosure to any other person or public body was a requirement for obtaining same and the information could not otherwise be obtained by law from that agency; and to any records or information filed with or received by the secretary of the Department of **Energy and** Natural Resources or any official or employee in the Department of **Energy and** Natural Resources from any person who is required by federal law to supply same to the state which information is not available to the public under federal law. Statistical reports which do not reveal, directly or by inference, the identity of the individual sources of the information compiled by the Department of Energy may be released to the public by the secretary of the Department of **Energy and** Natural Resources.

* * *

Section 18. R.S. 47:301(10)(gg) and (18)(p), 633(7)(c)(iii)(bb), (iv)(aa), (bb), and (cc) and (d), (9)(d)(i) and (iii), the introductory paragraph of 633.4(B)(1), 633.5(A), the introductory paragraph of 648.2(1), 648.3, 1508(B)(9), 1515.2, 1989(C)(2)(a)(vi)(cc), and 6035(D) are hereby amended and reenacted to read as follows:

§301. Definitions

As used in this Chapter, the following words, terms, and phrases have the meanings ascribed to them in this Section, unless the context clearly indicates a different meaning:

* * *

(10)(a)(i)

* * *

* * *

(gg) For purposes of sales and use tax imposed by the state under R.S. 47:302, 321, and 331 or any political subdivision of the state, the term "sale at retail"

1 shall not include the sale of anthropogenic carbon dioxide for use in a qualified
2 tertiary recovery project approved by the assistant secretary of the office of
3 conservation of the Department of **Energy and** Natural Resources pursuant to R.S.
4 47:633.4.

5 * * *

6 (18)(a)(i) * * *

7 (p) Solely for purposes of sales and use tax imposed by the state under R.S.
8 47:302, 321, and 331 or any political subdivision of the state, the term "use" shall not
9 mean or include the purchase, importation, storage, distribution or exercise of any
10 right or power over anthropogenic carbon dioxide used in a qualified tertiary
11 recovery project approved by the assistant secretary of the office of conservation of
12 the Department of **Energy and** Natural Resources pursuant to R.S. 47:633.4.

13 * * *

14 §633. Rates of tax

15 The taxes on natural resources severed from the soil or water levied by R.S.
16 47:631 shall be predicated on the quantity or value of the products or resources
17 severed and shall be paid at the following rates:

18 * * *

19 (7)(a) * * *

20 (c)(i)(aa) * * *

21 (iii) * * *

22 (bb) Payout of well cost shall be the cost of completing the well to the
23 commencement of production as determined by the Department of **Energy and**
24 Natural Resources.

25 (iv) * * *

26 (aa) To qualify for inactive or orphan well status for purposes of the special
27 rate referenced in this Item, an application for inactive or orphan well certification
28 shall be made to the Department of **Energy and** Natural Resources during the period
29 beginning July 1, 2018, and ending June 30, 2023. Upon certification that a well is
30 inactive or orphan, production shall be subject to the special rate as provided in this

1 Item from the date production begins or ninety days from the date of the application,
2 whichever occurs first. If, in any one fiscal year, the secretary of the Department of
3 Revenue estimates that the severance tax paid under the provisions of this Item will
4 be in excess of fifteen million dollars, the secretary shall notify the commissioner of
5 conservation who shall not certify inactive or orphan well status for any other wells
6 for the remainder of that fiscal year. Such certifications may begin again after the
7 beginning of the next fiscal year.

8 (bb) If the severance tax is paid at the full rate provided by this Section
9 before the Department of Energy and Natural Resources approves an application for
10 inactive or orphan well status, the operator is entitled to a credit against taxes
11 imposed by this Section in an amount equal to the tax paid. To receive a credit, the
12 operator must apply to the secretary of the Department of Revenue for the credit not
13 later than the first anniversary after the date the Department of Energy and Natural
14 Resources certifies that the well is an inactive or orphan well.

15 (cc) Notwithstanding any provision of law to the contrary, oil production
16 from any orphan well as defined by R.S. 30:88.2(A) that is undergoing or has
17 undergone well enhancements that required a Department of Energy and Natural
18 Resources permit, including but not limited to re-entries, workovers, or plugbacks,
19 from which production commences on or after October 1, 2021, and before June 30,
20 2031, shall be exempt from the severance tax. To qualify for the exemption, an
21 application for certification shall be made to the Department of Energy and Natural
22 Resources. Upon certification that a well qualifies for the exemption, the operator
23 shall retain an amount equal to the severance tax otherwise due for the initial three
24 months of the exemption. Beginning in the fourth month following certification, the
25 operator shall report, on forms prescribed by the secretary, and remit to the
26 Department of Revenue an amount equal to the severance tax applicable to the well
27 pursuant to this Paragraph, which shall be credited to the associated site-specific trust
28 account provided for in R.S. 30:88.2 and shall be subject to all due date, interest, and
29 penalty provisions applicable to the oil severance tax.

30 (d) There shall be an exemption from severance tax as provided in this

1 Subparagraph for production from any horizontally drilled well, or, on any
 2 horizontally drilled recompletion well, from which production occurs on or after July
 3 1, 2015. The exemption shall last for a period of twenty-four months or until payout
 4 of the well cost is achieved, whichever comes first. For the purposes of this Section
 5 "horizontal drilling" shall mean high angle directional drilling of bore holes with
 6 fifty to three thousand plus feet of lateral penetration through productive reservoirs
 7 and "horizontal recompletion" shall mean horizontal drilling in an existing well bore.
 8 Payout of well cost shall be the cost of completing the well to the commencement
 9 of production as determined by the Department of **Energy and** Natural Resources.

10 * * *

11 (9)(a)(i) * * *

12 (d)(i) The gas tax rate provided in Subparagraph (a) of this Paragraph shall
 13 be adjusted annually on July first for the ensuing twelve calendar months as
 14 hereinafter set forth but shall never be less than seven cents per thousand cubic feet.
 15 On or before April 30, 1991, and annually thereafter, the secretary shall determine,
 16 using the "gas base rate adjustment" as hereinafter provided, the new gas tax rate for
 17 the twelve calendar months beginning July 1, 1991, and respectively for each
 18 twelve-month period beginning annually thereafter. The new gas tax rate shall be the
 19 rate provided in Subparagraph (a) of this Paragraph multiplied by the gas base rate
 20 adjustment. The "gas base rate adjustment" shall be determined by the secretary of
 21 the Department of **Energy and** Natural Resources. The "gas base rate adjustment"
 22 for the applicable twelve-month period is a fraction, the numerator of which shall be
 23 the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled
 24 price on the last trading day for the month, as reported in the Wall Street Journal for
 25 the previous twelve-month period ending on March thirty-first, and the denominator
 26 of which shall be the average of the monthly average spot market prices of gas fuels
 27 delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing
 28 House for the twelve-month period ending March 31, 1990 (1.7446 \$/MMBTU). For
 29 the twelve-month period ending March 31, 2003, the monthly average gas prices
 30 used in making the numerator of the "gas base rate adjustment", the average gas

1 prices for the months April, 2002 through September, 2002 shall be the monthly
 2 average spot market price of gas fuels delivered into the pipelines into Louisiana as
 3 reported in the Natural Gas Clearing House, and the average gas prices for the
 4 months October, 2002 through March, 2003 shall be the New York Mercantile
 5 Exchange (NYMEX) Henry Hub settled price on the last trading day for the month,
 6 as reported in the Wall Street Journal. The secretary of the Department of Revenue
 7 shall publish the "gas base rate adjustment" and the "gas tax rate", as determined
 8 under this Subparagraph in the official journal of the state of Louisiana by May first
 9 of each year and shall provide the "gas base rate adjustment" and the "gas tax rate"
 10 to affected producers by written notice mailed sixty days prior to the effective date
 11 thereof, but failure to make such publication or to give such notice shall not be a
 12 condition for the new gas tax rate which shall nevertheless be effective.

13 * * *

14 (iii) If the base data of the NYMEX Henry Hub average monthly gas price
 15 is substantially revised, the secretary of the Department of **Energy and** Natural
 16 Resources shall make appropriate adjustment to insure that the "gas base rate
 17 adjustment" is reasonably consistent with the result which would have been attained
 18 had such substantial revision not been made. If the secretary is unable to make
 19 reasonable changes sufficient to insure a consistent result, the "gas tax rate" shall
 20 remain that last established under this Subparagraph until a comparable method for
 21 determining the "gas tax rate" is adopted by the legislature.

22 * * *

23 §633.4. Tertiary recovery incentive

24 * * *

25 B.(1) In order to accomplish the purposes set forth in Subsection A of this
 26 Section, no severance tax shall be due in regard to production from a qualified
 27 tertiary recovery project approved by the assistant secretary of the office of
 28 conservation of the Department of **Energy and** Natural Resources until such project
 29 has reached payout from total production of:

30 * * *

1 §633.5. Produced water injection incentive

2 A. The office of water resources of the Department of Environmental Quality
3 was directed by R.S. 30:2074(C) to act in conjunction with the Department of
4 Energy and Natural Resources to conduct a risk analysis of the discharge of
5 produced waters, excluding cavern leach waters, from oil and gas activities onto the
6 ground and into the surface waters in the coastal wetlands of the state, and to
7 examine the environmental risks and the economic impact on the oil and gas industry
8 if the discharge was to be prohibited. The risk analysis was not properly conducted
9 as directed, however, and the Department of Environmental Quality did in fact
10 prohibit the discharge of produced water into the surface waters of the state by rules
11 promulgated and which became effective on March 20, 1991.

12 * * *

13 §648.2. Definitions

14 Unless the context otherwise requires, the words defined in this Section have
15 the following meaning when found in this Part:

16 (1) A "certified new discovery oil and natural gas well" is one designated as
17 such by the Department of Energy and Natural Resources after determining that:

18 * * *

19 §648.3. Severance tax suspension on production from certified new discovery oil
20 and natural gas wells

21 All severance taxes on production from certified new discovery oil and
22 natural gas wells are hereby suspended from the date of completion for a period of
23 twenty-four months or until recovery of payout of the well cost, whichever comes
24 first. Payout of the well cost shall be determined by the Department of Energy and
25 Natural Resources.

26 * * *

27 §1508. Confidentiality of tax records

28 * * *

29 B. Nothing herein contained shall be construed to prevent:

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* * *

§6035. Tax credit for investments in qualified clean-burning motor vehicle fuel property

* * *

D. The secretary of the Department of Revenue in consultation with the secretary of the Department of **Energy and** Natural Resources shall promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Section.

* * *

Section 19. R.S. 48:224(C) is hereby amended and reenacted to read as follows:

§224. Abandonment of highway; sale by department; acquisition by governing authority; ratification

* * *

C. If the governing authority or authorities are unwilling to accept and maintain the highway or highway section to be abandoned, or in the event of the abandonment of any property acquired and used for right-of-way purposes, the realignment of which has been changed so as to make the right-of-way no longer needed for the original purpose, the secretary may at his discretion dispose of the property at either public or private sale. Private sale shall be limited to the original vendor of the property or his successors in title. If the sale is to the original vendor of the property, the consideration for the private sale shall be the original cost to the department or its appraised market value, whichever is greater. If the sale is to the successors in title to the original vendor, the consideration for the private sale shall be the present appraised value. If sold, notice of abandonment of the roadway shall be posted in accordance with Subsection E of this Section. If the property cannot be sold at either public or private sale, then abandonment may be accomplished as provided in Subsection E of this Section or transferred to the Department of **Energy and** Natural Resources, state lands section.

* * *

Section 20. R.S. 49:74(A)(5)(b)(i)(aa)(VI), 191(12)(c), 214.5.1(B)(2), 214.6.2(C)(1)

1 and (D)(8), 214.8.6(B)(4), 214.23(12), 214.24(D), 214.25(C), 214.26(A)(1), 214.31(B),
2 214.33(B)(6), 214.36(J)(1)(a), 259(A) and (D), 330(A)(4), 966(B)(11), and 1053(C)(11) are
3 hereby amended and reenacted to read as follows:

4 §74. Registration of lobbyists with the ethics board; compilation of information

5 A. Each lobbyist shall register with the ethics board as soon as possible after
6 employment as a lobbyist or after the first action requiring his registration as a
7 lobbyist, whichever occurs first, and in any event not later than five days after
8 employment as a lobbyist or not later than five days after the first action requiring
9 his registration as a lobbyist, whichever occurs first. He shall electronically file with
10 the ethics board, using forms provided by it, the following information:

11 * * *

12 (5)(a) * * *

13 (b) For the purposes of this Paragraph, the following terms shall have the
14 following meanings:

15 (i) "Executive branch department head" means:

16 (aa) The secretary of each of the following departments of state government:

17 * * *

18 (VI) The Department of Energy and Natural Resources.

19 * * *

20 §191. Termination of legislative authority for existence of statutory entities; phase-
21 out period for statutory entities; table of dates

22 Notwithstanding any termination dates set by any previous Act of the
23 legislature, the statutory entities set forth in this Section shall begin to terminate their
24 operations on July first of each of the following years, and all legislative authority
25 for the existence of any statutory entity, as defined in R.S. 49:190, shall cease as of
26 July first of the following year, which shall be the termination date:

27 * * *

28 (12) July 1, 2024:

29 * * *

30 (c) The Department of Energy and Natural Resources and all statutory

1 entities made a part of the department by law.

2 * * *

3 §214.5.1. Coastal Protection and Restoration Authority Board

4 * * *

5 B. The Coastal Protection and Restoration Authority Board shall consist of
6 the following members:

7 * * *

8 (2) Secretary of the Department of **Energy and** Natural Resources or his
9 designee.

10 * * *

11 §214.6.2. Functions and responsibilities; coastal activities

12 * * *

13 C. The authority shall:

14 (1) Receive all monies appropriated from the Coastal Protection and
15 Restoration Fund to the Coastal Protection and Restoration Authority for
16 implementation of all programs and projects contained in an annual plan developed
17 by the Coastal Protection and Restoration Authority Board and approved by the
18 legislature, except that the Department of **Energy and** Natural Resources, office of
19 coastal management, shall receive any funds allocated in the annual plan for the
20 coastal zone management program.

21 * * *

22 D. The authority may:

23 * * *

24 (8) Utilize the services of the Department of **Energy and** Natural Resources,
25 office of management and finance, for accounting and budgetary control,
26 procurement and contractual management, data processing, management and
27 program analysis, and personnel management and grants management, provided that
28 the secretary of the Department of **Energy and** Natural Resources shall exercise no
29 authority over the provision of these services.

30 * * *

1 §214.8.6. Annual basin plan

2 * * *

3 B. As a part of the procedures to be followed by the director in the
4 development of an annual basin plan, the chair of the board shall appoint a technical
5 advisory group to review, evaluate, and approve all water management and water
6 quality projects proposed for inclusion in an annual plan. The technical advisory
7 group shall consist of the following appointments:

8 * * *

9 (4) One member from the Department of **Energy and** Natural Resources.

10 * * *

11 §214.23. Definitions

12 * * *

13 (12) "Secretary" shall mean the secretary of the Department of **Energy and**
14 Natural Resources or his designee.

15 * * *

16 §214.24. Coastal zone boundary

17 * * *

18 D. The secretary shall adopt a fully delineated inland boundary in accordance
19 with the provisions of Subsection C of this Section, which boundary shall not depart
20 appreciably from the boundary delineated therein. The secretary shall be authorized
21 to amend the boundary as may be appropriate to follow the corporate limits of any
22 municipality divided by the boundary. The boundary, as adopted, shall be clearly
23 marked on large scale maps or charts, official copies of which shall be available for
24 public inspection in the office of coastal management of the Department of **Energy**
25 **and** Natural Resources and each local government in the coastal zone. The boundary
26 shall also be available in an electronic format map available for viewing or download
27 from the office of coastal management website.

28 §214.25. Types of uses

29 * * *

30 C. The secretaries of the Departments of **Energy and** Natural Resources and

1 Wildlife and Fisheries are authorized to jointly develop for adoption by the secretary,
 2 after notice and public hearing, rules for the further delineation of the types of uses
 3 that have a direct and significant impact on coastal waters and that demonstrate a
 4 need for coastal management, the classification of uses not listed herein, and for the
 5 modification and change of the classifications of uses, provided that no changes shall
 6 be made in the classifications of the uses listed in Subsection A.

7 * * *

8 §214.26. Coastal management program; administration

9 A.(1) A coastal management program is hereby established within the
 10 Department of **Energy and** Natural Resources. The secretary or his designee shall
 11 administer the coastal management program.

12 * * *

13 §214.31. Existing authority of certain state departments and local governments
 14 retained

15 * * *

16 B. Permits issued pursuant to existing statutory authority of the office of
 17 conservation in the Department of **Energy and** Natural Resources for the location,
 18 drilling, exploration and production of oil, gas, sulphur or other minerals shall be
 19 issued in lieu of coastal use permits, provided that the office of conservation shall
 20 coordinate such permitting actions pursuant to R.S. 49:214.32(B) and (D) and shall
 21 ensure that all activities so permitted are consistent with the guidelines, the state
 22 program and any affected local program.

23 * * *

24 §214.33. Coordinated coastal permitting process

25 * * *

26 B. To implement this intent, within one year of the effective date of this
 27 Subpart, the secretary, local governments, and all other relevant governmental bodies
 28 having such other regulatory jurisdiction or authority over uses of the coastal zone
 29 shall in cooperation with one another and under the direction of the governor
 30 establish a coordinated coastal permitting process by means of binding interagency

1 agreements wherein:

2 * * *

3 (6) The coordinated coastal permitting process shall not affect the powers,
4 duties, or functions of any governmental body particularly the Department of
5 Wildlife and Fisheries and the Office of Conservation in the Department of Energy
6 and Natural Resources.

7 * * *

8 §214.36. Enforcement; injunction; penalties and fines

9 * * *

10 J. The monies collected by the state under the provisions of this Section shall
11 be deposited as follows:

12 (1) The monies collected by the secretary for violations relating to use of
13 state concern shall be used for the following purposes only in the proportions stated:

14 (a) After deducting the costs to reimburse the Department of Energy and
15 Natural Resources for the expenses incurred enforcing the provisions of this Subpart,
16 seventy-five percent of the monies collected shall be placed in the Coastal Protection
17 and Restoration Fund established in Article VII, Section 10.2 of the Constitution of
18 Louisiana and used for projects that are consistent with Paragraph (O)(2) of this
19 Section.

20 * * *

21 §259. Department of Justice Legal Support Fund

22 A. There is hereby established in the state treasury a special fund to be known
23 as the Department of Justice Legal Support Fund, hereinafter referred to as the
24 "fund". The fund shall be comprised of proceeds recovered by the attorney general
25 on behalf of the state from court judgments, settlements, fines, fees, forfeitures and
26 penalties, from the recovery or award of any attorney fees as provided in R.S.
27 42:262, or from proceeds recovered by the attorney general from any other source
28 which revenues are received by the attorney general for deposit into the fund, except
29 those judgments and recoveries made on or pertaining to any office of risk
30 management litigation, litigation involving the Department of Energy and Natural

1 Resources or the Department of Environmental Quality, or to the settlement funds,
 2 judgments, or final disposition of the claims asserted in State of Louisiana v. BP
 3 Exploration & Production, et al., consolidated with In Re: Oil Spill by the Oil Rig
 4 "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL No. 2179
 5 (E.D. La.) (hereinafter "DWH litigation"), as provided in Subsection D of this
 6 Section.

7 * * *

8 D. Notwithstanding the provisions of Subsection A of this Section, no
 9 proceeds shall be deposited into the fund from court-awarded judgments and
 10 settlements involving the Department of **Energy and** Natural Resources as specified
 11 in R.S. 30:136.3(B)(1), nor any judgments, settlements, or recoveries which are
 12 designated for credit to the Hazardous Waste Site Cleanup Fund, the Environmental
 13 Trust Dedicated Fund Account, or any other funds administered by the Department
 14 of Environmental Quality under the Environmental Quality Act. Notwithstanding the
 15 provisions of Subsection A of this Section, no proceeds shall be deposited into the
 16 fund from court-awarded judgments and settlements involving the Department of
 17 Transportation and Development. Notwithstanding the provisions of Subsection A
 18 of this Section, no proceeds shall be deposited into the fund from judgments,
 19 settlements, or recoveries arising from the DWH litigation, including but not limited
 20 to litigation expenses, assessment costs, court costs or attorney fees.

21 * * *

22 §330. Mineral Income Advisory Committee; mineral revenue contracts by state
 23 treasurer

24 A.(1) The Mineral Income Advisory Committee is hereby created. The
 25 committee shall be composed of the following members:

26 * * *

27 (4) The secretary of the Department of **Energy and** Natural Resources, the
 28 secretary of the Department of Revenue, the commissioner of administration, and the
 29 state treasurer shall be available to the committee for the research relative to mineral
 30 revenue contracts as provided for in this Section.

1 * * *

2 §966. Review of agency rules; fees

3 * * *

4 B. * * *

5 (11) The Department of **Energy and** Natural Resources and all of the
6 agencies made a part of it shall submit the report to the House Committee on Natural
7 Resources and Environment and the Senate Committee on Natural Resources.
8 However, for exercises of the commissioner of conservation's rulemaking authority
9 pursuant to Chapter 13-A-1 of Title 38 of the Louisiana Revised Statutes of 1950,
10 the department shall submit the report to the House Committee on Natural Resources
11 and Environment and the Senate Committee on Environmental Quality.

12 * * *

13 §1053. Louisiana Geographic Information Systems Council; creation; membership;
14 quorum; domicile

15 * * *

16 C. The council shall be composed of the following members:

17 * * *

18 (11) A representative of the Department of **Energy and** Natural Resources,
19 appointed by the secretary.

20 * * *

21 Section 21. R.S. 51:1601(H), 1602(3), (5), (8), (13), and (15), the introductory
22 paragraph of 1603, 1603(7)(c), and 1605(B)(12) through (15) are hereby amended and
23 reenacted to read as follows:

24 §1601. Findings, policy and procedure

25 The legislature finds and declares that:

26 * * *

27 H. The public interest of the state in avoiding or ameliorating the effects of
28 the conversion of the state's industrial and powerplant fuel requirements from natural
29 gas and petroleum to coal or other alternate fuels can best be served by granting to
30 the Department of **Energy and** Natural Resources primary state governmental

1 responsibility for intervening on behalf of the state with the United States
 2 Department of Energy in the implementation and administration of the Powerplant
 3 and Industrial Fuel Use Act of 1978, and authorizing the department to implement
 4 such measures within the state as may postpone untimely implementation of federal
 5 laws and regulations and further, where use of or conversion to coal or other
 6 alternate fuel is mandated, to take such measures as may be required to insure that
 7 mandated future use and conversion proceeds in an orderly fashion and with a
 8 minimum of adverse economic effect upon the state and to the maximum extent
 9 possible take measures to insure that natural gas affected by this conversion be
 10 retained within the state of Louisiana.

11 §1602. Definitions

12 As used in this Act, the following words and phrases have the meaning
 13 ascribed to them in this Section except where otherwise provided in this Act or
 14 unless a different meaning is plainly required by the context:

15 * * *

16 (3) "Department of **Energy and** Natural Resources" or "Department" means
 17 the Department of **Energy and** Natural Resources of the state of Louisiana.

18 * * *

19 (5) "Exemptions" as used in this Chapter shall mean those criteria established
 20 through rules and regulations of the Department of **Energy and** Natural Resources,
 21 in accordance with federal law and in coordination with the rules of applicable
 22 federal agencies to permit a powerplant or industry, when feasible or in the best
 23 interest of the state, to postpone or avoid untimely use of coal or other alternate fuel
 24 or conversion of its fuel base from natural gas or petroleum to coal or other alternate
 25 fuel.

26 * * *

27 (8) "Revenues" include fees, proceeds, moneys, receipts, and income derived
 28 for the account of the Department of **Energy and** Natural Resources in connection
 29 with any revenue bond project or arising from such project.

30 * * *

1 (13) "Secretary of Natural Resources" or "Secretary" means the secretary of
2 the Department of **Energy and** Natural Resources of the state of Louisiana or such
3 persons as he may authorize to act for him as provided in R.S. 51:1603.

4 * * *

5 (15) "State Plan" means a program or plan of the state of Louisiana planned,
6 prepared, established, and administered by the Department of **Energy and** Natural
7 Resources to implement the intent and purposes of this Chapter.

8 * * *

9 §1603. Jurisdiction, powers, and responsibilities

10 The Department of **Energy and** Natural Resources, acting through the
11 secretary, shall administer this Chapter. The secretary may authorize officers or
12 employees of the department to administer the provisions of this Chapter, subject to
13 the overall direction and supervision of the secretary. The secretary shall have the
14 following duties and powers and is authorized, empowered, and, as applicable,
15 required to:

16 * * *

17 (7)(a) * * *

18 (c) In establishing and implementing such state plan, the secretary may make
19 rules and regulations; construct and operate support facilities, whether through the
20 department or by contract with licensees under this Chapter or other third parties;
21 issue licenses to persons to construct, operate, and own support facilities; coordinate
22 such state plan with the federal government and its jurisdictional agencies; grant
23 exemptions to conversion requirements under conditions stated in rules and
24 regulations promulgated by the Department of **Energy and** Natural Resources in
25 accordance with the Powerplant and Industrial Fuel Use Act of 1978 and other
26 applicable federal law and regulation; issue bonds; and do such other things as are
27 necessary to establish the state plan within the intent and purposes of this Chapter.

28 * * *

29 §1605. Bonds; procedure for issuance

30 * * *

1 B. * * *

2 (12) Limited liability of the state. The revenue bonds shall be limited
 3 obligations of the state. The principal of and interest on the revenue bonds shall not
 4 be payable by the secretary personally or from funds of the Department of **Energy**
 5 **and** Natural Resources nor shall they constitute a pledge, charge, lien, or
 6 encumbrance upon any revenues except the revenues, agreements, and funds pledged
 7 under the resolution or trust agreement authorizing such bonds. Neither the credit nor
 8 the taxing power of the state shall be pledged for the payment of such principal or
 9 interest, and no holder of revenue bonds shall have the right to compel the exercise
 10 of the taxing power by the state or the forfeiture of its property in connection with
 11 any default thereon. Every revenue bond shall recite in substance that the principal
 12 of and interest on such bond is payable solely from the revenues pledged to its
 13 payment and that the Department of **Energy and** Natural Resources is not obligated
 14 to pay such principal or interest except from such revenues. The face of each interest
 15 coupon shall bear a statement to the effect that such coupon is payable solely from
 16 certain revenues as set forth in the bond to which such coupon pertains. The revenue
 17 bonds issued under the provisions of this Section shall not constitute a debt of this
 18 state or of the Department of **Energy and** Natural Resources and the state shall not
 19 be liable thereon.

20 (13) Proceeds and revenues to be deposited in separate funds. Subject to
 21 agreements with the holders of revenue bonds, all proceeds of revenue bonds and all
 22 revenue pledged under a resolution or trust agreement authorizing or securing such
 23 bonds shall be set aside as received and shall be deposited and held in trust by a
 24 trustee appointed by the secretary of natural resources in a fund or funds separate and
 25 apart from all other funds of the Department of **Energy and** Natural Resources.
 26 Subject to the resolution or trust agreement, the trustee shall hold the same for the
 27 benefit of the holders of the bonds for the application and disposition thereof solely
 28 to the respective uses and purposes provided in such resolution or trust agreement.

29 (14) Agreement required prior to delivery of revenue bonds. Prior to the
 30 delivery of revenue bonds under this Section the secretary of natural resources may

1 enter into an agreement or agreements with one or more licensees to lease, sublease,
2 operate, construct, or otherwise utilize the support facilities which constitute the
3 revenue project or enter into a loan or other financing agreement with one or more
4 licensees providing that the licensee will construct, operate, and maintain the revenue
5 bond project or projects. Any such agreement shall set forth the rights, duties, and
6 obligations of the parties thereto; provide for the completion of the revenue bond
7 project or projects from bond proceeds or other sources; provide that neither the state
8 nor the Department of **Energy and** Natural Resources shall have any liability or
9 responsibility whatsoever for any loss or damage arising out of the acquisition,
10 construction, operation, and maintenance of such project or projects, and also shall
11 provide for the payment to the Department of **Energy and** Natural Resources of such
12 rentals, installment payments, or other moneys as will be sufficient to pay the
13 principal of and interest on the revenue bonds issued to finance the revenue bond
14 project or projects and build up and maintain any reserves deemed advisable in
15 connection therewith. This agreement shall be made upon such other terms and
16 conditions and for such time as may be determined by the secretary of natural
17 resources and may contain provisions authorizing the sale, resale, lease, sublease,
18 operation, usage, or purchase of the entire revenue bond project, or any portion
19 thereof, for such consideration and upon such terms and conditions as the secretary
20 of natural resources may determine.

21 (15) Construction of Section. The powers and rights conferred by this Section
22 shall be in addition and supplemental to the powers and rights conferred by any other
23 general or special law. This Section does and shall be construed to provide a
24 complete method for doing the things authorized thereby. Neither the making of
25 contracts nor the issuance of revenue bonds or refunding revenue bonds or other
26 obligations pursuant to the provisions of this Section need comply with the
27 requirements of any other state law applicable to the making of contracts and the
28 issuance of the revenue bonds or other obligations for the financing of any revenue
29 bond project or projects undertaken pursuant to this Section, except herein provided.
30 The secretary of natural resources acting through the State Bond Commission and

1 in accordance with R.S. 39:1403 is vested with and is hereby granted the right,
 2 power, and authority to do, perform, and exercise for the behalf of the Department
 3 of **Energy and** Natural Resources all acts and things required to be done and
 4 performed in connection with the authorization and issuance of revenue bonds under
 5 this Section. No proceedings, notice, or approval shall be required for the issuance
 6 of any revenue bonds or any instrument as security therefor, except as provided in
 7 this Section. The provisions of this Section shall be liberally construed for the
 8 accomplishment of its purposes.

9 * * *

10 Section 22. R.S. 56:4, 301.10(E)(2) and (3), 421(B)(3) and (E)(4), 432.1(C)(2),
 11 494(E)(2) and (3), 700.11(4) and (7), 700.13(A), 796(B)(1)(p), 1431(E), 1808(A),
 12 1932(A)(6), 1933(A)(1)(g), and 2011(E) are hereby amended and reenacted to read as
 13 follows:

14 §4. Authority of Department of **Energy and** Natural Resources over navigable water
 15 bottoms

16 Nothing in this Title and particularly in Section 3 of this Part affects in any
 17 way the authority of the Louisiana Department of **Energy and** Natural Resources to
 18 lease or otherwise administer the beds and bottoms of navigable rivers, streams,
 19 bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting with the
 20 Gulf of Mexico within the territory or jurisdiction of the state, as established by law
 21 and regulations promulgated thereunder.

22 * * *

23 §301.10. Louisiana Finfish Task Force

24 * * *

25 E. The task force is hereby charged with responsibility to do the following:

26 * * *

27 (2) Provide for the study of the decline in finfish marketability and market
 28 price, provide for the study of the impacts of imported finfish on the domestic
 29 market, assist in the development of a state finfish inspection program, assist in the
 30 development of a Louisiana finfish certification and branding program, and make

1 recommendations to the Wildlife and Fisheries Commission, the Department of
2 Wildlife and Fisheries, the Department of **Energy and** Natural Resources, the
3 Department of Agriculture and Forestry, and the Louisiana Department of Health for
4 implementation of policies to help enhance the domestic finfish industry.

5 (3) Make recommendations with respect to issues pertaining to the finfish
6 industry and finfish production to the various state agencies charged with
7 responsibility for differing elements of the finfish industry in this state, including the
8 Department of Wildlife and Fisheries, the Department of **Energy and** Natural
9 Resources, the Coastal Protection and Restoration Authority, the Louisiana
10 Department of Health, the Department of Agriculture and Forestry, and the
11 legislature.

12 * * *

13 §421. Oyster Task Force

14 * * *

15 B. The task force shall be composed as follows:

16 * * *

17 (3) One member appointed by the secretary of the Department of **Energy and**
18 Natural Resources.

19 * * *

20 E. The task force is hereby charged with responsibility to do the following:

21 * * *

22 (4) Make recommendations with respect to issues pertaining to the oyster
23 industry and oyster production to the various state agencies charged with
24 responsibility for differing elements of the oyster industry in this state, including the
25 Department of Wildlife and Fisheries, the Department of **Energy and** Natural
26 Resources, and the Coastal Protection and Restoration Authority Board, the Coastal
27 Protection and Restoration Authority, the Louisiana Department of Health, the
28 governor's executive assistant for coastal activities, and the legislature.

29 * * *

30 §432.1. Oyster Lease Acquisition and Compensation Program

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* * *

C. A leaseholder whose lease is acquired in whole or in part may seek an administrative hearing through the Coastal Protection and Restoration Authority as to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection is proper or whether the compensation issued by the Coastal Protection and Restoration Authority satisfies the rules or regulations of that department. A leaseholder whose lease is not acquired but which was impacted by dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection has occurred, may also seek an administrative hearing through the Coastal Protection and Restoration Authority to determine if acquisition of such acreage would be proper. Adjudication under this Section shall be conducted in accordance with the following:

* * *

(2) Adjudication under this Section shall be conducted in accordance with Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950, and pursuant to the rules and regulations promulgated by the Department of **Energy and** Natural Resources after consideration of recommendations by the Louisiana Oyster Task Force. The administrative law judge shall consider any reasonably confirmable data or information provided to that department by the leaseholder or any other person on or before the date of the administrative review.

* * *

§494. Louisiana Shrimp Task Force

* * *

E. The task force is hereby charged with responsibility to do the following:

* * *

(2) Provide for the study of the decline in shrimp marketability and market price, provide for the study of the impacts of imported shrimp on the domestic market, assist in the development of a state shrimp inspection program, assist in the

1 development of a Louisiana shrimp certification and branding program, and make
2 recommendations to the Wildlife and Fisheries Commission and the Department of
3 Wildlife and Fisheries, the Department of **Energy and** Natural Resources, the
4 Department of Agriculture and Forestry, and the Louisiana Department of Health for
5 implementation of policies to help enhance the domestic shrimp industry.

6 (3) Make recommendations with respect to issues pertaining to the shrimp
7 industry and shrimp production to the various state agencies charged with
8 responsibility for differing elements of the shrimp industry in this state, including the
9 Department of Wildlife and Fisheries, the Department of **Energy and** Natural
10 Resources, and the Coastal Protection and Restoration Authority, the Louisiana
11 Department of Health, the Department of Agriculture and Forestry, and the
12 legislature.

13 * * *

14 §700.11. Definitions

15 As used in this Part, unless the context requires otherwise, the terms set forth
16 below shall have the following meanings:

17 * * *

18 (4) "Department" means the Department of **Energy and** Natural Resources.

19 * * *

20 (7) "Secretary" means the secretary of the Department of **Energy and** Natural
21 Resources, or his designee.

22 * * *

23 §700.13. Establishment of the board

24 A. There is hereby established within the office of the secretary of the
25 Department of **Energy and** Natural Resources the Oyster Lease Damage Evaluation
26 Board, hereinafter known as the board.

27 * * *

28 §796. Lake Fausse Point, Lake Dauterive, and Grand Avoille Cove Advisory Board

29 * * *

30 B.(1) The commission is comprised as follows:

1 * * *

2 (p) The lieutenant governor, the secretary of the Department of Wildlife and
3 Fisheries, and the secretary of the Department of **Energy and** Natural Resources
4 may each designate an individual to serve as a nonvoting member of the board.

5 * * *

6 §1431. Bayou Liberty; clearing; expropriation prohibited

7 * * *

8 E. Subject to conditions stated herein, the Department of **Energy and** Natural
9 Resources is hereby authorized to purchase property along that portion of Bayou
10 Liberty from its headwaters to U.S. Hwy. 190 to be used as conservation easements.
11 The purchase of property for conservation easements shall only be authorized if and
12 when funding for such purchase is appropriated for that purpose by the legislature.

13 * * *

14 §1808. Functions and duties of state agencies

15 A. The Department of Wildlife and Fisheries, the office of tourism and
16 promotion, the Department of Transportation and Development, the Department of
17 **Energy and** Natural Resources, the Department of Agriculture, the State Soil and
18 Water Conservation Commission, and the Louisiana Cooperative Extension Service
19 or their successor agencies shall furnish assistance to the state liaison officer for the
20 implementation of the Chapter in compliance with the provisions of R.S. 49:661 and
21 663.

22 * * *

23 §1932. Project selection board

24 A. The program shall be governed by a project selection board composed of
25 the following members:

26 * * *

27 (6) The secretary of the Department of **Energy and** Natural Resources or his
28 designee.

29 * * *

30 §1933. Technical advisory board

1 A. The project selection board shall be advised by a technical advisory board
2 composed of the following members:

3 (1) Subject matter representatives from the following:

4 * * *

5 (g) The Department of Energy and Natural Resources.

6 * * *

7 §2011. License to dredge; royalties; exemptions

8 * * *

9 E. Any private landowner, state agency, political subdivision, or associated
10 consultant or contractor engaged in a coastal protection, conservation, or restoration
11 activity consistent with an annual plan or the comprehensive master plan established
12 pursuant to R.S. 49:214.5.3 or engaged in an activity to remove sediment buildup to
13 preserve or restore the natural habitat of a water body of the state or to enhance
14 navigation and recreation activities on a water body of the state shall be exempt from
15 payment of the royalties and bond requirements of this Section. However, any such
16 private landowner, state agency, political subdivision, or associated consultant or
17 contractor shall be required to apply for and receive the appropriate license required
18 by this Section. To be eligible for exemption from the royalty payment and bond
19 requirements of this Section, a private landowner shall obtain a letter of no-objection
20 from either the governing authority of the political subdivision within which the
21 activity will occur or the local coastal management program under which the activity
22 is authorized, and the approval, in writing, of the secretary of the Department of
23 Energy and Natural Resources, the secretary of the Department of Transportation
24 and Development, and the executive director of the Coastal Protection and
25 Restoration Authority.

26 * * *

27 Section 23. The introductory paragraph of Code of Civil Procedure Art. 1552 and
28 1563(A)(2) and (B) are hereby amended and reenacted to read as follows:

29 Art. 1552. Environmental management orders

30 Upon the request of any party in any civil action alleging environmental

1 damage pursuant to R.S. 30:29, or the Department of **Energy and** Natural
 2 Resources, office of conservation, the court shall direct the attorneys for the parties
 3 to appear before the court to develop an environmental management order. The
 4 environmental management order shall authorize all parties to access the property
 5 allegedly impacted to perform inspections and environmental testing. The order shall
 6 require that all test results be submitted to all parties and the Department of **Energy**
 7 **and** Natural Resources, office of conservation, within thirty days of receipt thereof.
 8 Failure by a party to provide the results of testing to the other parties shall preclude
 9 that party from admitting those results into evidence in the civil action. The
 10 environmental management order shall include reasonable terms for all of the
 11 following:

12 * * *

13 Art. 1563. Limited admission of liability in environmental damage lawsuits; effect

14 A.(1) * * *

15 (2) Upon the expiration of the delay in which a party may file a limited
 16 admission under Subparagraph (5) of this Paragraph, and if one or more of the
 17 defendants have made a timely limited admission, the court shall refer the matter to
 18 the Department of **Energy and** Natural Resources, office of conservation, hereinafter
 19 referred to as the "department", to conduct a public hearing to approve or structure
 20 a plan which the department determines to be the most feasible plan to evaluate or
 21 remediate the environmental damage under the applicable regulatory standards
 22 pursuant to the provisions of R.S. 30:29. There shall be a rebuttable presumption that
 23 the plan approved or structured by the department, after consultation with the
 24 Department of Environmental Quality as appropriate, shall be the most feasible plan
 25 to evaluate or remediate the environmental damage under the applicable regulatory
 26 standards pursuant to the provisions of R.S. 30:29. For cases tried by a jury, the court
 27 shall instruct the jury regarding this presumption if requested by a party.

28 * * *

29 B. The provisions of this Article shall not establish primary jurisdiction with
 30 the Department of **Energy and** Natural Resources.

1 Section 24. The Louisiana State Law Institute is hereby directed to change all
2 references to the "Department of Natural Resources" to the "Department of Energy and
3 Natural Resources" throughout the Louisiana Revised Statutes of 1950 and the Code of Civil
4 Procedure.

5 Section 25. This Act shall become effective on January 10, 2024.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2023 Regular Session
HOUSE BILL NO. 305
BY REPRESENTATIVE BROWN

ACT No. 272

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 253(C) and 1911(A), relative to the
3 signing of certain orders and documents by the court; to provide relative to the use
4 of electronic signatures by judges; to provide relative to certain requirements; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 253(C) and 1911(A) are hereby amended
8 and reenacted to read as follows:

9 Art. 253. Pleadings, documents, and exhibits to be filed with clerk

10 * * *

11 C. A judge or justice presiding over a court in this state may sign a court
12 order, notice, official court document, and other writings required to be executed in
13 connection with court proceedings, by use of an electronic signature as defined by
14 R.S. 9:2602. ~~The various courts shall provide by court rule for the method of~~
15 ~~electronic signature to be used and to ensure the authenticity of the electronic~~
16 ~~signature.~~

17 * * *

18 Art. 1911. Final judgment; partial final judgment; signing; appeals

19 A. Except as otherwise provided by law, every final judgment shall contain
20 the typewritten or printed name of the judge and be signed by the judge. Any
21 judgment that does not contain the typewritten or printed name of the judge shall not

2023 Regular Session
HOUSE BILL NO. 196
BY REPRESENTATIVE BROWN

ACT No. 317

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 966(A)(4), (B)(1), (2), and (3),
3 (D)(2), and (G), and to enact Code of Civil Procedure Article 966(B)(5) and (D)(3),
4 relative to motions for summary judgment; to provide for certain procedures at the
5 hearing on a motion for summary judgment; to provide for the filing and
6 consideration of certain documents; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 966(A)(4), (B)(1), (2), and (3), (D)(2),
9 and (G) are hereby amended and reenacted and Code of Civil Procedure Article 966(B)(5)
10 and (D)(3) are hereby enacted to read as follows:

11 Art. 966. Motion for summary judgment; procedure

12 A.

13 * * *

14 (4)(a) The only documents that may be filed or referenced in support of or
15 in opposition to the motion are pleadings, memoranda, affidavits, depositions,
16 answers to interrogatories, certified medical records, certified copies of public
17 documents or public records, certified copies of insurance policies, authentic acts,
18 private acts duly acknowledged, promissory notes and assignments thereof, written
19 stipulations, and admissions. The court may permit documents to be filed in any
20 electronically stored format authorized by court rules or approved by the clerk of the
21 court.

22 (b) Any document listed in Subsubparagraph (a) of this Subparagraph
23 previously filed into the record of the cause may be specifically referenced and
24 considered in support of or in opposition to a motion for summary judgment by

1 documents, would not be admissible at the trial on the merits. See *Thompson v.*
 2 *Center for Pediatric and Adolescent Medicine, L.L.C.*, 244 So. 3d 441, 446 (La. App.
 3 1 Cir. 2018). In most cases, a certified copy of an insurance policy should include
 4 the declaration page and relevant endorsements.

5 (b) Subsubparagraph (A)(4)(b) is new and provides that a document listed
 6 in Subsubparagraph (A)(4)(a) that was previously filed in the record may be
 7 specifically referenced with the motion and opposition by title and date of filing. At
 8 the time of the filing of the motion or opposition, the party shall also furnish to the
 9 court and opposing party a copy of the entire document, designate the pertinent part
 10 of the document, and include the date the document was filed. See Louisiana District
 11 Court Rule 9.10. Failure to comply with Subsubparagraph (A)(4)(b) may be
 12 grounds for an objection requesting that the court not consider the referenced
 13 document. This Subsubparagraph still allows a party to attach to the motion or
 14 opposition all documents that are submitted and does not require a party to reference
 15 a previously filed document. Subparagraphs (B)(1) and (2) were also revised in
 16 accordance with this change.

17 (c) Subparagraphs (B)(1), (2), and (3) now require that the motion for
 18 summary judgment, opposition to the motion, reply memorandum, and all documents
 19 filed or referenced in support of or in opposition to the motion for summary
 20 judgment be served electronically in accordance with Article 1313(A)(4).

21 (d) Subparagraph (B)(3) clarifies that legal holidays are included in the
 22 calculation of time within which the mover shall file the reply memorandum.
 23 Subparagraph (B)(4) continues to apply in this situation. For example, if the hearing
 24 on the motion for summary judgment is set on Friday, the fifth day to file the reply
 25 memorandum falls on the preceding Sunday. Accordingly, under Subparagraph
 26 (B)(4), the mover would have the entirety of the preceding Monday to file the reply
 27 memorandum. The court should be aware of this requirement when setting hearings
 28 on motions for summary judgment.

29 (e) Subparagraph (B)(5) is new and would change the result reached by the
 30 Louisiana Supreme Court in *Zapata v. Seal*, 330 So. 3d 175 (La. 2021). This
 31 Subparagraph is intended only to prohibit a trial court from reconsidering the
 32 granting of a partial summary judgment because a document was not timely filed and
 33 served with an opposition in accordance with the deadlines imposed by this Article.

34 (f) Subparagraph (D)(2) was amended to include only slight changes in
 35 phraseology. The amendment is not intended to make substantive changes to the
 36 law.

37 (g) Subparagraph (D)(3) sets forth a rule recognizing that if a party timely
 38 objects to the expert's opinion attached to either the motion for summary judgment
 39 or the opposition and elects to file a motion in accordance with Article 1425(F)
 40 questioning the expert's qualifications or methodologies, the court shall set a hearing
 41 and decide the Article 1425(F) motion prior to the hearing on the motion for
 42 summary judgment. To avoid any possible conflict between the time delays in this
 43 Article and Article 1425(F), the court should set appropriate deadlines for the Article
 44 1425(F) hearing in a scheduling or pretrial order.

45 (h) Paragraph G was amended to codify the holding of the Louisiana
 46 Supreme Court in *Amedee v. Aimbridge Hospitality LLC*, 351 So. 3d 321 (La.
 47 2022). A defendant who has filed an opposition to the granting of a motion for
 48 summary judgment dismissing a codefendant may appeal the judgment despite the
 49 plaintiff's failure to appeal. Paragraph G was also amended to answer the question
 50 raised in footnote 1 of the opinion - if summary judgment is granted finding a party
 51 not at fault, not negligent, or not to have caused in whole or in part the injury of any
 52 harm alleged, and that judgment is subsequently reversed, the fault or contribution

1 of that party is deemed not to have been adjudicated as to any other party,
 2 notwithstanding whether any other party has appealed. As a result of the reversal,
 3 the previously dismissed defendant is returned as a party to the case for all purposes
 4 and as to all parties. The final judgment of the appellate court reversing the granting
 5 of a motion for summary judgment as to one party applies to all parties, including
 6 a plaintiff who has failed to appeal.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2023 Regular Session
HOUSE BILL NO. 339
BY REPRESENTATIVE GREGORY MILLER

ACT No. 368

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 966(G), relative to motions for
3 summary judgment; to provide relative to the admission of evidence; to provide
4 relative to fault; to provide for the admission of evidence of a principal acting
5 pursuant to a mandate; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 966(G) is hereby amended and reenacted
8 to read as follows:

9 Art. 966. Motion for summary judgment; procedure

10 * * *

11 G. When the court ~~grants a motion for~~ renders summary judgment in
12 accordance with the provisions of this Article; that a party or ~~non-party~~ nonparty is
13 not negligent, is not at fault, or did not cause in whole or in part the injury or harm
14 alleged, that party or ~~non-party~~ nonparty shall not be considered in any subsequent
15 allocation of fault. Evidence shall not be admitted at trial to establish the fault of that
16 party or ~~non-party~~ nonparty except that evidence may be admitted to establish the
17 fault of a principal when the party or nonparty acted pursuant to a mandate or
18 procuration. During the course of the trial, no party or person shall refer directly or
19 indirectly to any such fault, nor shall that party or ~~non-party's~~ nonparty's fault be
20 submitted to the jury or included on the jury verdict form except where evidence is
21 admitted of the acts of the party or nonparty for purposes of establishing the fault of

1 the party or nonparty's principal. This Paragraph does not apply if the trial or
 2 appellate court's judgment rendered in accordance with this Article is reversed. If
 3 the judgment is reversed by an appellate court, the reversal is applicable to all
 4 parties.

* * *

6 Section 2. In the case of any conflict between the provisions of this Act and the
 7 provisions of any other Act of the 2023 Regular Session of the Legislature, the provisions
 8 of this Act shall supersede and control regardless of the order of passage.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 140

BY SENATOR FOIL

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

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AN ACT

To amend and reenact Code of Civil Procedure Articles 2293(B)(1), 2334, 2721, and 2724(A) and R.S. 13:3852, 4341, 4360, and 5530(A)(7)(a), and to enact Code of Civil Procedure Article 2344 and R.S. 13:4358 and 4369, relative to judicial sales; to provide for procedures and requirements for online auctions; to provide for notice of seizure and sale; to provide with respect to online auction companies; to provide for submission of payment and readvertisement; to provide with respect to actions to set aside or annul online judicial sales; to provide with respect to the price of adjudication; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 2293(B)(1), 2334, 2721, and 2724(A) are hereby amended and reenacted, and Code of Civil Procedure Article 2344 is hereby enacted, to read as follows:

Art. 2293. Notice to judgment debtor; appointment of attorney

* * *

B.(1) After the seizure of property, the sheriff shall serve promptly upon the judgment debtor, **in the manner provided for service of citation**, a written notice of the seizure and a list of the property seized, ~~in the manner provided for service of citation. Such~~ **The** notice of seizure shall be accomplished by personal service or domiciliary service. If service cannot be made on the judgment debtor or his attorney of record, the court shall appoint an attorney upon whom service may be made. The notice of seizure shall include information concerning the ~~availability of housing counseling services, as well as the~~ time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B). **If the sheriff's sale is to be conducted through an online auction in accordance with Article 2344, the notice**

1 of seizure, or a subsequent notice served upon the judgment debtor at least
 2 three days before the sale, shall state that the sheriff's sale will be conducted
 3 through an online auction, shall specify the date of the online auction and the
 4 time when bidding is scheduled to open, and shall identify the electronic address
 5 of the platform through which bids can be entered. In the case of seizure of
 6 residential property, the notice of seizure shall include information concerning
 7 the availability of housing counseling services, in accordance with the form
 8 provided in R.S. 13:3852(B).

9 * * *

10 Art. 2334. Reading of advertisement and certificates

11 A. At the time and place designated for the sale, the sheriff shall read aloud
 12 all or part of the advertisement describing the property in such sufficiency as to
 13 reasonably provide notice to the public of the property then being offered for sale,
 14 which, at a minimum, shall include the lot and subdivision or municipal number or
 15 by the section, township, and range, including some identifying mark, if appropriate,
 16 and a reference to the conveyance or mortgage recordation. The sheriff shall also
 17 read aloud a mortgage certificate and any other certificate required by law or
 18 otherwise provide, at least twenty-four hours prior to the sale, a copy of ~~such~~ **these**
 19 certificates to the public by means of public posting, written copies, electronic
 20 means, or by any other method.

21 B. **In the case of sale through an online auction in accordance with**
 22 **Article 2344, the requirements of Article 2344(D) apply.**

23 C. The failure of the sheriff to procure, read aloud, or provide a copy of any
 24 certificate as required by this Article, **or to comply with the requirements of**
 25 **Article 2344(D) in the case of an online auction,** shall not impact the validity of the
 26 sale and shall not give rise to any cause of action against the sheriff, the seizing
 27 creditor, or the purchaser arising out of ~~such~~ **the** failure.

28 * * *

29 **Art. 2344. Online auctions**

30 **A. In lieu of selling the seized property at an auction conducted at a**

1 designated place, the sheriff may offer the property for sale by an online auction
2 conducted through a computer network or other electronic telecommunications
3 system generally available to the public.

4 B. Notice of a sale by online auction shall be published in accordance
5 with Article 2331 and in the manner provided by law. In addition to the other
6 requirements of law, the notice shall state that the sale will be conducted
7 through an online auction, shall identify the electronic address of the platform
8 through which bids can be entered, and shall specify the date of the sale and the
9 time when bidding is scheduled to open.

10 C. Online auctions shall be conducted only on a day on which the sheriff
11 is permitted by law to conduct judicial sales, beginning at a time set by the
12 sheriff. Online bidding at each sale shall be open until at least two minutes have
13 elapsed since the most recent bid was entered, or if no bid is entered, until at
14 least two minutes have elapsed since bidding was opened. The amount of each
15 bid shall be posted on the platform and made visible to the public
16 contemporaneously with the entering of the bid. The sheriff may set a minimum
17 incremental bid amount for each sale.

18 D. Before the opening of bidding, the platform on which bidders enter
19 bids for the property shall display or otherwise make accessible the
20 advertisement of the sale, the mortgage certificate, and all other certificates that
21 the sheriff would be required by Article 2334 to read aloud at the time and place
22 designated for a sheriff's sale. The platform shall also display the announcement
23 required by Article 2335.

24 E. The sheriff may impose reasonable qualifications on bidders other
25 than the seizing creditor and the debtor, including the requirement to pay a
26 deposit or provide proof of available funds before the opening of bidding. These
27 qualifications shall be displayed or otherwise made accessible on the platform.

28 F. Upon request made by the debtor before the day of the online auction,
29 the sheriff shall inform the debtor of a location where the debtor may, without
30 charge, have use of a computer terminal or other accommodation to bid at the

1 online auction.

2 G. Entry by a seizing creditor of a bid at an online auction or the seizing
 3 creditor's indication on the platform that it is present for the online auction or
 4 that it will not enter a bid constitutes presence at the sale for the purposes of
 5 Article 2338.

6 H. Except as otherwise provided in this Article, the online auction shall
 7 be conducted as far as practicable in compliance with the requirements of this
 8 Chapter and Chapter 3 of this Title.

9 * * *

10 Art. 2721. Seizure of property; notice

11 A. The sheriff shall seize the property affected by the mortgage, security
 12 agreement, or privilege immediately upon receiving the writ of seizure and sale.

13 B. The sheriff shall serve upon the defendant a written notice of the seizure
 14 of the property. ~~Such~~ **The** notice of seizure shall be accomplished by personal
 15 service or domiciliary service. The notice of seizure shall reproduce in full the
 16 provisions of Article 2642 and include information concerning the ~~availability of~~
 17 ~~housing counseling services, as well as the~~ time, date, and place of the sheriff's sale,
 18 in accordance with the form provided in R.S. 13:3852(B). **If the sheriff's sale is to**
 19 **be conducted through an online auction in accordance with Article 2344, the**
 20 **notice of seizure, or a subsequent notice served upon the defendant at least three**
 21 **days before the sale, shall state that the sheriff's sale will be conducted through**
 22 **an online auction, shall specify the date of the online auction and the time when**
 23 **bidding is scheduled to open, and shall identify the electronic address of the**
 24 **platform through which bids can be entered.**

25 **C. If the seized property is residential property, the notice of seizure shall**
 26 **include information concerning the availability of housing counseling services,**
 27 **in accordance with the form provided in R.S. 13:3852(B).**

28 **D.** The sheriff shall have no liability to the debtor or to any third party for
 29 wrongful or improper seizure of the debtor's or third party's property of the same
 30 general type as described in the debtor's security agreement. If necessary, the sheriff

1 shall request the secured creditor to identify the property subject to the security
2 agreement and shall act pursuant to the secured creditor's instructions. The debtor's
3 and other owner's sole remedy for the wrongful or improper seizure of the property
4 shall be for actual losses sustained under R.S. 10:9-625 against the secured creditor
5 on whose behalf and pursuant to whose instructions the sheriff may act.

6 * * *

7 Art. 2724. Articles relating to sales under fieri facias applicable

8 A. The provisions of ~~Paragraphs A through C of Article 2293~~ **Articles**
9 **2293(A) through (C)**, ~~Articles 2333 through 2335, and 2337 through~~ **2344, and**
10 **2371 through** 2381, relating to a sale of property under the writ of fieri facias, shall
11 apply to a sale of property under the writ of seizure and sale.

12 * * *

13 Section 2. R.S. 13:3852, 4341, 4360, and 5530(A)(7)(a) are hereby amended and
14 reenacted, and R.S. 13:4358 and 4369 are hereby enacted, to read as follows:

15 §3852. Notices of seizure

16 A. The sheriff to whom the writ is directed shall make three notices setting
17 forth the title of the action or proceeding, its docket number, the court ~~which~~ **that**
18 issued the writ, the amount of the judgment or claim specified in the writ, an exact
19 copy of the description of the immovable property furnished ~~him~~ **to the sheriff** in
20 accordance with R.S. 13:3851, the fact that the sheriff is seizing the described
21 property in accordance with Code of Civil Procedure Article 2293, information as
22 provided in Subsection B of this Section concerning the property owner's rights and
23 the availability of housing counseling services, and the date of the first scheduled
24 sale of the property. The initial sheriff's sale date shall not be scheduled any earlier
25 than sixty days after the date of the signed court order commanding the issuance of
26 the writ. If the immovable property to be seized is owned by more than one party, the
27 sheriff shall make an additional notice for each additional party. No other notice of
28 seizure shall be required.

29 B. The following form shall be used for these notices by the sheriff:

30 ~~"Notice is hereby given that I am this day seizing, in accordance with the~~

1 provisions of R.S. 13:3851 through 13:3861, the following described immovable
 2 property, to wit: _____ as the property of
 3 _____, under a writ of _____, issued on the _____ day of
 4 _____, _____, by the _____ District Court for the Parish of
 5 _____, in the matter entitled _____
 6 versus _____, No. _____ of its docket, to satisfy a claim of
 7 \$ _____, interest and costs, this _____ day of _____, _____. **This is**
 8 **formal notice that today, this _____ day of _____, _____, I am seizing**
 9 **the property of _____ described as:**
 10 _____ . **This seizure is pursuant to**
 11 **Louisiana law, including R.S. 13:3851 through 3861. This seizure is a result of**
 12 **a writ of _____, issued on the _____ day of _____, _____, by**
 13 **the _____ Court. The writ was issued in**
 14 **versus _____, Docket No. _____ . This seizure is to satisfy a**
 15 **claim of \$ _____, plus interest and costs.**

16 This matter is scheduled for sheriff's sale **as follows [COMPLETE ONLY**
 17 **ONE OF THE FOLLOWING ALTERNATIVES AS APPROPRIATE]:**

18 **[] A sheriff's sale is scheduled to be conducted on the _____ day**
 19 **of _____, _____, at _____ A.M./P.M.a.m./p.m. at .**

20 **[] A sheriff's sale is scheduled to be conducted through an online auction**
 21 **on the _____ day of _____, _____, beginning at _____ a.m./p.m., and bids**
 22 **may be entered on the platform having the following electronic address:**
 23 _____.

24 Please be aware that the sheriff's sale date **or the manner in which the sale**
 25 **will be conducted** may change. You may contact the sheriff's office to find out the
 26 new date when the property is scheduled to be sold. The new sale date will also be
 27 published in the local newspaper in accordance with R.S. 43:203. **If the sale is**
 28 **conducted through an online auction, the sheriff will, upon your request made**
 29 **before the day of the online auction, inform you of a location where you may,**
 30 **without charge, have use of a computer terminal or other accommodation to bid**

1 **at the online auction.**

2 If the seized property is residential property, you may be afforded the
3 opportunity to bring your account in good standing by entering into a loss mitigation
4 agreement with your lender, or by paying all of your past due payments plus
5 permitted costs and expenses within the time permitted by law for reinstatement of
6 your account. You are strongly encouraged to seek legal counsel. If you cannot
7 afford to pay an attorney, you may be able to qualify for free legal services.
8 Foreclosure prevention counseling services through a housing counselor, including
9 loss mitigation, are provided free of charge. To find a local housing counseling
10 agency approved by the U.S. Department of Housing and Urban Development, you
11 may contact the U.S. Department of Housing and Urban Development or the
12 Louisiana Housing Corporation.

13 THE FOLLOWING PARAGRAPH APPLIES ONLY TO PROPERTY
14 THAT HAS BEEN SEIZED PURSUANT TO A WRIT OF SEIZURE AND SALE
15 ISSUED IN AN EXECUTORY PROCEEDING: As provided in Louisiana Code of
16 Civil Procedure Article 2642, defenses and procedural objections to an executory
17 proceeding may be asserted either through an injunction proceeding to arrest the
18 seizure and sale as provided in Articles 2751 through 2754, or a suspensive appeal
19 from the order directing the issuance of the writ of seizure and sale, or both. A
20 suspensive appeal from an order directing the issuance of a writ of seizure and sale
21 shall be taken within fifteen days of service of the notice of seizure as provided in
22 Article 2721. The appeal is governed by the provisions of Articles 2081 through
23 2086, 2088 through 2122, and 2124 through 2167, except that the security therefor
24 shall be for an amount exceeding by one-half the balance due on the debt secured by
25 the mortgage or privilege sought to be enforced, including principal, interest to date
26 of the order of appeal, and attorney fees, but exclusive of court costs.

27 _____
28 Sheriff
29 Parish of _____
30 By: _____"

1 C. The sheriff shall not be required to serve any further notice of rescheduled
2 sale dates or rescheduled online auction dates provided ~~he~~ the sheriff has not
3 returned the writ to the clerk of court.

4 * * *

5 §4341. Time and place of sale; adjournments; Orleans Parish excepted

6 A. All public sales by auction, the parish of Orleans excepted, when made
7 by sheriffs, coroners, constables, auctioneers, or succession representatives shall be
8 advertised to take place at the courthouse, any courthouse annex if located in the
9 same parish as the courthouse but on the opposite side of any navigable river, or at
10 some other public place in the vicinity of the courthouse, on any Monday,
11 Wednesday, Friday, or Saturday of the month, beginning at 10:00 a.m., after the
12 expiration of the time required by law for the advertisement of ~~such~~ these sales; and
13 the sheriff, coroner, constable, auctioneer, or succession representative may adjourn
14 the sale to the following legal day, and then, from day to day, only in case there shall
15 not be time to conclude the sale in one day. However, nothing contained ~~herein~~ in
16 this Subsection shall deprive the defendant of the privilege now enjoyed by him of
17 having his movable property, when it is under seizure, offered for sale at his
18 domicile, upon his giving notice to the proper officer within three days after notice
19 of seizure. In the sales of succession property; consisting of only movable property
20 or of both movable and immovable property, the succession representative may pray
21 that the sale of the succession movable property be made on the premises.

22 B. When the sale takes place at the courthouse, courthouse annex, sheriff's
23 office, or other public place in the vicinity of the courthouse, the sheriff or other
24 person conducting the sale may use an empty courtroom, auditorium, or office with
25 sufficient seating for persons attending the sale. The location shall be accessible to
26 the public and reasonably specified in the advertisement of the time and place of
27 sale. The sheriff or other person conducting the sale shall maintain the decorum of
28 proceedings during the sale and may use a microphone or amplified sound system
29 for recitals required by the sale. The provisions of this Subsection are applicable to
30 all parishes in the state. If the sale is held under the provisions of this Subsection at

1 a location other than the steps of the courthouse, on the date of sale, a notice of the
2 time and location of the sale shall be posted at the main entrance to the courthouse.

3 C. A sale conducted by online auction in accordance with Code of Civil
4 Procedure Article 2344 shall take place on one of the days specified in
5 Subsection A of this Section but shall not otherwise be subject to the provisions
6 of this Section.

7 * * *

8 §4358. Online auction companies

9 A. The sheriff may, in accordance with law, engage an auction company
10 to perform an online auction pursuant to Code of Civil Procedure Article 2344,
11 but the sheriff remains responsible for the performance or nonperformance of
12 the duties delegated to that company. The sheriff shall not delegate the duties
13 to serve notices required by law, to receive and obtain appraisals of the
14 property, to determine the amount of the minimum bid required by law, to
15 ascertain the existence of superior encumbrances, to release inferior
16 encumbrances, to file the proces verbal of the sale or the act of sale in favor of
17 the purchaser, or to distribute the proceeds of the sale.

18 B. The agreement between the sheriff and the auction company shall
19 provide for the payment to the auction company of a fixed fee, which shall be
20 taxed as costs of the sale, in an agreed amount not exceeding three hundred
21 seventy-five dollars per adjudication.

22 C. Upon motion of the sheriff or either of the parties, the court may, in
23 a specific case having exceptional circumstances and after a hearing, authorize
24 a fee in excess of those provided in Subsection B of this Section.

25 D. The auction company conducting the sale shall not be entitled to any
26 fee or compensation other than the fee authorized by this Section, and the
27 auction company shall not be entitled to reimbursement of any expenses
28 incurred in connection with the sale. Any contrary stipulation shall be
29 absolutely null.

30 E. Any stipulation by which the auction company agrees to share any

1 portion of its fee with the sheriff or otherwise provide a financial benefit of any
 2 nature to the sheriff shall be absolutely null.

3 F. The contract by which the sheriff engages an auction company to
 4 conduct an online auction under this Section shall contain such requirements
 5 as the sheriff may impose concerning data security and liability insurance. If the
 6 auction company will receive funds from bidders, other than fees earned by the
 7 auction company under this Section, the contract shall require the auction
 8 company to furnish a fidelity bond in an amount deemed appropriate by the
 9 sheriff.

10 G. The auction company shall segregate any funds received from
 11 bidders, other than fees earned by the auction company under this Section,
 12 from funds of the auction company and shall hold the funds received in a
 13 separate escrow, trust, or similar transaction settlement bank account holding
 14 funds as restricted cash separate from the general funds of the auction
 15 company. The auction company may use this account to conduct settlements, in
 16 which case the internet-based platform may collect bidder funds from sales into
 17 this account and then settle the transaction.

18 * * *

19 §4360. Resale if required payment not made; resale if adjudicatee fails to pay
 20 balance

21 A. If the terms of the sale provide for the full payment of the adjudication
 22 price at the moment of the adjudication, or if the terms provide for a deposit, and the
 23 purchaser fails to make ~~such the~~ full payment or deposit, the seizing creditor may
 24 direct the officer conducting the sale either to ~~re-offer~~ reoffer the property
 25 immediately; or ~~re-advertise~~ to readvertise the property for sale as provided in ~~Sub-~~
 26 ~~section C~~ Subsection D of this Section. If the property is ~~re-offered~~ reoffered for
 27 sale immediately, the first purchaser is relieved of any liability. This Subsection
 28 does not apply to a sale conducted by online auction in accordance with Code
 29 of Civil Procedure Article 2344.

30 B. In the case of a sale conducted by online auction in accordance with

1 property through an online auction by reason of noncompliance with the
 2 requirements of Code of Civil Procedure Article 2344 or R.S. 13:4358 if the
 3 sheriff executing the judicial sale has either filed the proces verbal of the sale or
 4 has delivered an act of sale to the purchaser.

* * *

§5530. Fees in civil matters

A. Sheriffs shall be entitled to no more than the following fees and compensation of office in all civil matters:

* * *

(7)(a) For commission on sales of property made by the sheriffs, three percent shall be allowed on the price of adjudication of immovable property, and six percent shall be allowed on the price of adjudication of movable property. As used herein **in this Subparagraph**, ~~"the price of adjudication"~~ **the "price of adjudication"** shall mean the amount of the successful bid price at the sale conducted by the sheriff.

* * *

Section 2. The Louisiana State Law Institute is hereby directed to review the provisions of this Act and add comments they deem necessary under Code of Civil Procedure Art. 2344 and R.S. 13:4358 as enacted in this Act.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2023 Regular Session
HOUSE BILL NO. 220

ACT No. 421

BY REPRESENTATIVE PRESSLY

(On Recommendation of the Louisiana State Law Institute)

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AN ACT

To amend and reenact Civil Code Articles 531 and 3440 and Code of Civil Procedure Articles 1061, 3651, 3653 through 3655, 3656(A), 3657 through 3662, and 3669, relative to actions to determine ownership or possession; to provide with respect to petitory actions, possessory actions, actions for declaratory judgments to determine ownership, and similar proceedings; to provide for proof of ownership of immovables; to provide with respect to precarious possession; to provide for reconventional demands; to provide with respect to cumulation of actions; to provide with respect to disturbances in fact and in law; to provide with respect to possession and admissibility of title; to provide for relief and appeals; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 531 and 3440 are hereby amended and reenacted to read as follows:

Art. 531. Proof of ownership of immovable.

One ~~who claims~~ claiming the ownership of an immovable against another who has been in possession of the immovable for one year after having commenced possession in good faith and with just title or who has been in possession of the immovable for ten years ~~must~~ shall prove that he has acquired ownership from a previous owner or by acquisitive prescription. ~~If neither party is in possession~~ In all other cases, he need only prove a better title.

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Revision Comments - 2023

(a) The 2023 revision of this Article changes substantially the burden of proof imposed upon a person claiming the ownership of an immovable against another who is in possession. Prior to the revision, this Article provided that in such cases, the claimant's burden of proof was to prove that he had acquired ownership from a prior owner or by acquisitive prescription. This burden of proof, which has often been characterized as the requirement of proving "title good against the world," applied even when the defendant was a usurper who had no title at all. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797 (La. 1974). Application of that rule could lead to obvious inequities by allowing a usurper who was in possession for only one year to prevail against a party who might have been in possession for many years previously under a title that suffered from only minor defects. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797, 799 (La. 1974) (Summers, J., dissenting).

(b) The 2023 revision narrows the circumstances in which the person claiming ownership must prove that he acquired ownership from a prior owner or by acquisitive prescription. As revised, the Article provides that this onerous burden of proof applies only when the defendant has been in possession for one year after having commenced possession in good faith and with just title or when the defendant has been in possession for ten years, regardless of whether in good faith or with just title. Where neither of these circumstances applies, the burden imposed upon the claimant is merely to prove a better title than that of the defendant.

(c) The good faith and just title mentioned in this Article are identical to the good faith and just title necessary to start the running of the acquisitive prescription of ten years under Article 3475. "Good faith" is used in this Article with the meaning given in Articles 3480 and 3481. By the express wording of this Article, the defendant's good faith is measured only at the commencement of his possession. This is analogous to the rule that applies under Article 3482 for purposes of the accrual of the acquisitive prescription of ten years.

(d) The 2023 revision does not change the rule that a common author in title is presumed to be the previous owner. See Article 532; *Weaver v. Hailey*, 416 So. 2d 311 (La. App. 3 Cir. 1982). The presumption is rebuttable. See Article 532, comment (b).

* * *

Art. 3440. Protection of precarious possession

Where there is a disturbance of possession, the possessory action is available to a precarious possessor, such as a lessee ~~or a depositary~~, against anyone except the person for whom he possesses.

Section 2. Code of Civil Procedure Articles 1061, 3651, 3653 through 3655, 3656(A), 3657 through 3662, and 3669 are hereby amended and reenacted to read as follows:

Art. 1061. Actions pleaded in reconventional demand; compulsory

A. The defendant in the principal action may assert in a reconventional demand any causes of action ~~which he~~ that the defendant may have against the

1 plaintiff in the principal action, even if these two parties are domiciled in the same
2 parish and regardless of connexity between the principal and reconventional
3 demands.

4 B. ~~The defendant in the principal action,~~ Except as otherwise provided in
5 Article 3657, and except in an action for divorce under Civil Code Article 102 or 103
6 or in an action under Civil Code Article 186, the defendant in the principal action
7 shall assert in a reconventional demand all causes of action that ~~he~~ the defendant may
8 have against the plaintiff that arise out of the transaction or occurrence that is the
9 subject matter of the principal action.

10 * * *

11 Art. 3651. Petitory action

12 The petitory action is one brought by a person who claims the ownership of,
13 but who ~~is not in possession~~ does not have the right to possess, of immovable
14 property or of a real right therein, against another who is in possession or who claims
15 the ownership thereof adversely, to obtain judgment recognizing the plaintiff's
16 ownership.

17 Comments - 2023

18 According to the Civil Code, possession is a matter of fact, but the right to
19 possess arises from possession for over a year and, once acquired, is lost if the
20 possessor is evicted and does not recover possession within one year of the eviction.
21 Civil Code Articles 3422 and 3434. For purposes of this Chapter, Code of Civil
22 Procedure Article 3660 defines "possession" as possession in fact, rather than the
23 right to possess, but this Article, among others, used the term "in possession" where
24 the right to possess, rather than factual possession, was intended. The 2023 revision
25 of this Article clarifies that a petitory action is brought by one who does not have the
26 right to possess. A person who still has the right to possess even though he might
27 have lost actual possession within the past year should bring a possessory action
28 against the person who evicted him, rather than a petitory action under this Article.

29 * * *

30 Art. 3653. Same; proof of title; immovable

31 A. To obtain a judgment recognizing his ownership of immovable property
32 or real right therein, the plaintiff in a petitory action shall:

33 (1) Prove that he has acquired ownership from a previous owner or by
34 acquisitive prescription, if the court finds that the defendant ~~is~~ has been in possession

1 ~~thereof, or~~ for one year after having commenced possession in good faith and with
 2 just title or that the defendant has been in possession for ten years.

3 (2) Prove a better title thereto than the defendant, ~~if the court finds that the~~
 4 ~~latter is not in possession thereof~~ in all other cases.

5 B. When the titles of the parties are traced to a common author, ~~he~~ the
 6 common author is presumed to be the previous owner.

7 Comments - 2023

8 (a) The 2023 revision of this Article changes substantially the burden of
 9 proof imposed upon the plaintiff in a petitory action when the defendant has the right
 10 to possess. Prior to the revision, this Article provided that, if the defendant in a
 11 petitory action was in possession, the plaintiff's burden of proof was to prove that he
 12 had acquired ownership from a prior owner or by acquisitive prescription. This
 13 burden of proof, which has often been characterized as the requirement of proving
 14 "title good against the world," applied even when the defendant was a usurper who
 15 had no title at all. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797 (La. 1974).
 16 Application of that rule could lead to obvious inequities by allowing a usurper who
 17 was in possession for only one year to prevail in a petitory action against a party who
 18 might have been in possession for many years previously under a title that suffered
 19 from only minor defects. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797, 799 (La.
 20 1974) (Summers, J., dissenting).

21 (b) The 2023 revision narrows the circumstances in which the plaintiff in a
 22 petitory action must prove that he acquired ownership from a prior owner or by
 23 acquisitive prescription. As revised, the Article provides that this onerous burden
 24 of proof applies only when the defendant has been in possession for one year after
 25 having commenced possession in good faith and with just title or when the defendant
 26 has been in possession for ten years, regardless of whether in good faith or with just
 27 title. Where neither of these circumstances applies, the plaintiff's burden in the
 28 petitory action is merely to prove a better title than that of the defendant.

29 (c) The good faith and just title mentioned in this Article are identical to the
 30 good faith and just title necessary to start the running of the acquisitive prescription
 31 of ten years under Civil Code Article 3475. "Good faith" is used in this Article with
 32 the meaning given in Civil Code Articles 3480 and 3481. By the express wording
 33 of this Article, the defendant's good faith is measured only at the commencement of
 34 his possession. This is analogous to the rule that applies under Civil Code Article
 35 3482 for purposes of the accrual of the acquisitive prescription of ten years.

36 (d) The 2023 revision does not change the rule that a common author in title
 37 is presumed to be the previous owner. See Civil Code Article 532; *Weaver v.*
 38 *Hailey*, 416 So. 2d 311 (La. App. 3 Cir. 1982). The presumption is rebuttable. See
 39 Civil Code Article 532, comment (b).

40 (e) Prior to its 2023 revision, this Article contained another example of the
 41 use of the term "possession" with a meaning different from that given to the term in
 42 Article 3660. See, e.g., *Griffin v. Daigle*, 769 So. 2d 720 (La. App. 1 Cir. 2000)
 43 (explaining that the words "in possession" as formerly used in this Article required
 44 that the defendant have had corporeal possession for at least one year or civil
 45 possession for the same period of time preceded by corporeal possession). This
 46 inconsistency in terminology was eliminated in the 2023 revision.

1 Art. 3654. Proof of title in action for declaratory judgment, concursus,
 2 expropriation, or similar proceeding

3 When the issue of ownership of immovable property or of a real right therein
 4 is presented in an action for a declaratory judgment, or in a concursus, expropriation,
 5 or similar proceeding, or when the issue of the ownership of funds that are deposited
 6 in the registry of the court and ~~which that~~ belong to the owner of the immovable
 7 property or of the real right therein is so presented, the court shall render judgment
 8 ~~in favor of the party~~ as follows:

9 (1) ~~Who~~ If the party who would be entitled to the possession of the
 10 immovable property or real right therein in a possessory action has been in
 11 possession for one year after having commenced possession in good faith and with
 12 just title or has been in possession for ten years, the court shall render judgment in
 13 favor of that party, unless the adverse party proves that he ~~has acquired ownership~~
 14 ~~from a previous owner or by acquisitive prescription,~~ or would be entitled to a
 15 judgment recognizing his ownership in a petitory action under Article 3653(A)(1).

16 (2) ~~Who~~ In all other cases, the court shall render judgment in favor of the
 17 party who proves better title to the immovable property or real right therein, ~~when~~
 18 ~~neither party would be entitled to the possession of the immovable property or real~~
 19 ~~right therein in a possessory action.~~

20 Comments - 2023

21 The 2023 revisions to this Article are intended to conform the burden of
 22 proof in a declaratory judgment action or other proceeding in which ownership is at
 23 issue to the burden of proof that applies under revised Article 3653 in a petitory
 24 action. As with a petitory action, if one party has been in possession for one year
 25 after having commenced possession in good faith and with just title or has been in
 26 possession for ten years, even in the absence of good faith or just title, that party will
 27 prevail, unless the adverse party proves that he acquired ownership from a prior
 28 owner or by acquisitive prescription.

29 Art. 3655. Possessory action

30 The possessory action is one brought by the possessor or precarious possessor
 31 of immovable property or of a real right therein to be maintained in his possession
 32 of the property or enjoyment of the right when he has been disturbed, or to be
 33 restored to the possession or enjoyment thereof when he has been evicted.

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Comments - 2023

The 2023 revision of this Article recognizes and complements a previous amendment to the Civil Code granting a precarious possessor, such as a lessee, the right to bring a possessory action against anyone other than the person for whom the precarious possessor possesses. See Civil Code Article 3440.

Art. 3656. Same; parties; venue

A. A ~~plaintiff in a~~ possessory action ~~shall~~ may be brought by one who possesses for himself. A person entitled to the use or usufruct of immovable property, and one who owns a real right therein, possesses for himself. A ~~predial lessee~~ possessory action may also be brought by a precarious possessor against anyone except the person for whom he possesses for and in the name of his lessor, and not for himself.

* * *

Comments - 2023

(a) The 2023 revision of this Article recognizes and complements a previous amendment to the Civil Code granting a precarious possessor, such as a lessee, the right to bring a possessory action against anyone other than the person for whom the precarious possessor possesses. See Civil Code Article 3440.

(b) The statement in this Article that a usufructuary possesses for himself means that the usufructuary has standing to bring a possessory action and does not imply that a usufructuary can prescribe against the naked owner without taking the steps required to terminate precarious possession under Civil Code Articles 3439 and 3478.

Art. 3657. Same; cumulation with petitory action ~~prohibited~~ or declaratory judgment action; conversion into or separate petitory action by defendant reconventional demand or separate suit asserting ownership or title

A. The plaintiff ~~may~~ shall not cumulate the possessory action with either the petitory and the possessory actions in the same suit or plead them in the alternative, and when he does so he waives the possessory action or a declaratory judgment action to determine ownership. If the plaintiff ~~brings~~ does so, the possessory action; ~~and without dismissing it and prior to judgment therein institutes the petitory action, the possessory action is abated~~ does not abate, but the defendant may object to the cumulation by asserting a dilatory exception. If, before executory judgment in the possessory action, the plaintiff institutes the petitory action or a declaratory judgment action in a separate suit, the possessory action abates.

1 (d) Prior to the 2023 revision, the consequences for a defendant who asserted
 2 title in himself in response to a possessory action were grave. Not only did his
 3 assertions of title convert the possessory action into a petitory action in which he
 4 became the plaintiff, but they also constituted a judicial confession of the other
 5 party's possession, thus triggering the onerous burden under Article 3653 of proving
 6 title good against the world. This harsh penalty has been removed. The defendant's
 7 assertions of title in a possessory action no longer convert the action into a petitory
 8 action or constitute a judicial confession of the plaintiff's possession; however, the
 9 defendant's assertions of title are considered in defense of the possessory action only
 10 for the limited purposes specified in Article 3661(B)(1) through (3). Thus, the
 11 defendant cannot divert the focus of a possessory action from the issue of possession
 12 to the often more complicated issue of ownership through the simple expedient of
 13 injecting issues of ownership in his pleadings.

14 (e) Unless the plaintiff in a possessory action has sought an adjudication of
 15 his ownership, the defendant is not permitted to assert a claim of ownership by
 16 reconvention. If the defendant asserts ownership by instituting a separate suit before
 17 judgment in the possessory action becomes executory, he judicially confesses the
 18 possession of the plaintiff in the possessory action. This judicial confession does not
 19 arise, however, if it is the plaintiff in the possessory action who institutes the
 20 separate suit to determine ownership while the possessory action is pending and the
 21 defendant reconvenes in that separate suit to assert his own claim of ownership.

22 Art. 3658. Same; requisites

23 To maintain the possessory action the ~~possessor must~~ plaintiff shall allege
 24 and prove ~~that~~ all of the following:

25 (1) ~~He~~ The plaintiff had possession or precarious possession of the
 26 immovable property or real right therein at the time the disturbance occurred;

27 (2) ~~He~~ The plaintiff and his ancestors in title, or the person for whom the
 28 plaintiff possesses precariously and that person's ancestors in title, had such
 29 possession quietly and without interruption for more than a year immediately prior
 30 to the disturbance, unless evicted by force or fraud;

31 (3) The disturbance was one in fact or in law, as defined in Article 3659;
 32 ~~and.~~

33 (4) The possessory action was instituted within a year of the disturbance.

34 Comments - 2023

35 The 2023 amendments to this Article recognize that a precarious possessor
 36 may bring a possessory action. The precarious possessor himself need not have
 37 exercised his precarious possession for a full year prior to the disturbance; it suffices
 38 if the person for whom he possesses precariously, or that person's ancestors in title,
 39 have had possession for a year.

1 Art. 3659. Same; disturbance in fact and in law defined

2 A. Disturbances of possession ~~which~~ that give rise to the possessory action
 3 are of two kinds: disturbance in fact and disturbance in law.

4 B. A disturbance in fact is an eviction, or any other physical act ~~which~~ that
 5 prevents the possessor of immovable property or of a real right therein from enjoying
 6 his possession quietly, or ~~which~~ that throws any obstacle in the way of that
 7 enjoyment.

8 C. A disturbance in law is the occurrence or existence of any of the
 9 following adversely to the possessor of immovable property or a real right therein:

10 (1) The execution, recordation, or registry, or continuing existence of record
 11 after the possessor or his ancestors in title acquired the right to possess, of any
 12 instrument ~~which~~ that asserts or implies a right of ownership or right to the
 13 possession of the immovable property or ~~of~~ a real right therein, ~~or any.~~

14 (2) The continuing existence of record of any instrument that asserts or
 15 implies a right of ownership or right to the possession of the immovable property or
 16 a real right therein, unless the instrument was recorded before the possessor and his
 17 ancestors in title commenced possession.

18 (3) Any other claim or pretension of ownership or right to the possession
 19 ~~thereof~~ of the immovable property or a real right therein, whether written or oral,
 20 except when asserted in an action or proceeding, ~~adversely to the possessor of such~~
 21 property or right.

22 Comments - 2023

23 (a) The 2023 amendments to this Article clarify when a disturbance in law
 24 must arise, in relation to the time that the plaintiff enters into possession or acquires
 25 the right to possess, in order for the disturbance to form the basis of a possessory
 26 action.

27 (b) Under Subparagraph (C)(1) of this Article, the plaintiff in a possessory
 28 action or his ancestors in title must have acquired the right to possess before the
 29 execution, recordation, or registry of an instrument that is claimed to constitute a
 30 disturbance in law. Thus, the plaintiff cannot complain that a previously recorded
 31 instrument, such as a prior conveyance in favor of the defendant, constitutes a
 32 disturbance in law of his possession. Similarly, under Subparagraph (C)(2), the
 33 continuing existence of record of an adverse instrument does not constitute a
 34 disturbance in law if the instrument was recorded before the possessor and his
 35 ancestors in title commenced possession.

1 (c) The temporal difference between Subparagraph (C)(1) (which refers to
 2 the time the plaintiff acquired the right to possess) and Subparagraph (C)(2) (which
 3 refers to the earlier point in time at which the plaintiff commenced possession) is
 4 intentional. Until the plaintiff has been in possession for one year, he is not entitled
 5 to complain of any kind of disturbance in law. After the one-year period has
 6 accrued, the plaintiff is entitled to complain of the execution and recordation of new
 7 adverse instruments, as Subparagraph (C)(1) provides, and may also complain of the
 8 continuing existence of record of instruments that were recorded during that one-year
 9 period and that, on account of their continuing existence of record after the accrual
 10 of the one-year period, constitute a continuing disturbance of his possession. In no
 11 event is the plaintiff permitted to claim that an instrument recorded before he
 12 commenced possession is a disturbance of his possession.

13 (d) The reason that the continuing existence of record of an adverse
 14 instrument constitutes a distinct disturbance in law is to prevent a possessor from
 15 losing the right to complain of an instrument that was recorded after he commenced
 16 possession but more than one year before he brings the possessory action. Without
 17 such a rule, his right to bring the possessory action would be lost under Article
 18 3658(4) for failure to institute the action within one year of the recordation of the
 19 instrument, even though he may have had no reason to suspect that an adverse
 20 instrument had been recorded. Because the continuing existence of record is a
 21 continuing disturbance, the one-year prescriptive period under Article 3658(4) for
 22 bringing a possessory action complaining of this disturbance in law effectively does
 23 not commence to run under these circumstances. See Roy O. Martin Lumber Co.,
 24 Inc. v. Lemoine, 381 So. 2d 915 (La. App. 3 Cir. 1980). See also Ree Corp. v.
 25 Shaffer, 260 So. 2d 307, 313 (La. 1972) (Tate, J., concurring).

26 Art. 3660. Same; possession

27 A. A person is in possession of immovable property or of a real right therein,
 28 within the intendment of the articles of this Chapter, when ~~he~~ the person has the
 29 corporeal possession thereof, or civil possession thereof preceded by corporeal
 30 possession by him or his ancestors in title, and possesses for himself or precariously
 31 for another, whether in good or bad faith, or even as a usurper.

32 B. Subject to the provisions of Articles 3656 and 3664, a person who claims
 33 the ownership of immovable property or of a real right therein possesses through his
 34 lessee, through another who occupies the property or enjoys the right under an
 35 agreement with him or his lessee, or through a person who has the use or usufruct
 36 thereof to which his right of ownership is subject.

37 Comments - 2023

38 The 2023 amendment of this Article retains the rule that, for purposes of this
 39 Chapter, "possession" means possession in fact, rather than the right to possess,
 40 except where the right to possess is expressly stated. Consistent with the changes
 41 made to Articles 3655, 3656, and 3658, the amended Article recognizes that
 42 precarious possession for another person constitutes possession for purposes of this
 43 Chapter.

1 Art. 3661. Same; title not at issue; limited admissibility of evidence of title

2 A. In the possessory action, the ownership or title of the parties to the
3 immovable property or real right therein is not at issue.

4 B. No evidence of ownership or title to the immovable property or real right
5 therein shall be admitted except to prove any of the following:

6 (1) The possession thereof by a party as owner;

7 (2) The extent of the possession thereof by a party; ~~or~~ and his ancestors in
8 title.

9 (3) The length of time in which a party and his ancestors in title have had
10 possession thereof.

11 Comments - 2023

12 The 2023 amendment to this Article clarifies that a person is entitled to use
13 evidence of ownership for purposes of proving not only the extent of his own
14 possession, but also the extent of possession of his ancestors in title. See Civil Code
15 Article 3442.

16 Art. 3662. Same; relief ~~which~~ that may be granted successful plaintiff in judgment;
17 appeal

18 A. A judgment rendered for the plaintiff in a possessory action shall:

19 (1) Recognize ~~his~~ the plaintiff's right to the possession of the immovable
20 property or real right therein, and restore him to possession thereof if he has been
21 evicted, or maintain him in possession thereof if the disturbance has not been an
22 eviction;

23 (2) Order the defendant to assert his adverse claim of ownership of the
24 immovable property or real right therein in a petitory action to be filed within ~~a delay~~
25 ~~to be fixed by the court not to exceed~~ sixty days after the date the judgment becomes
26 executory, or be precluded thereafter from asserting the ownership thereof, if the
27 plaintiff has prayed for ~~such~~ this relief and this relief is not precluded by Paragraph
28 B of this Article.; ~~and~~

29 (3) Award ~~him~~ the plaintiff the damages to which he is entitled and for
30 which he has prayed for.

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Comments - 2023

Prior to its revision in 2023, this Article provided that the plaintiff's burden of proof in a petitory action contemplated by this Article was that which applies when neither party is in possession. Rather than following this indirect approach, the 2023 revision states more plainly and directly what the burden of proof is in such an action: it is to prove a better title.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____