

By: Middleton

H.B. No. 4172

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the burden of proof in a suit or administrative  
3 proceeding to establish that an area is subject to the public beach  
4 easement.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 61.020, Natural Resources Code, is  
7 amended to read as follows:

8 Sec. 61.020. BURDEN OF PROOF [~~PRIMA FACIE EVIDENCE~~]. [~~(a)~~]  
9 In a suit or administrative proceeding brought or defended under  
10 this subchapter or whose determination is affected by this  
11 subchapter pertaining to [~~, a showing that the area in question is~~  
12 ~~located in~~] the area from mean low tide to the line of vegetation,  
13 the burden of proof is on the party seeking to establish [~~is prima~~  
14 ~~facie evidence~~] that:

15 (1) the title of the littoral owner does not include  
16 the right to prevent the public from using the area for ingress and  
17 egress to the sea; or [~~and~~]

18 (2) there is imposed on the area a common law right or  
19 easement in favor of the public for ingress and egress to the sea.

20 [~~(b) The determination of the location of the line of~~  
21 ~~vegetation by the commissioner as provided by Sections 61.016 and~~  
22 ~~61.017 constitutes prima facie evidence of the landward boundary of~~  
23 ~~the area subject to the public easement until a court adjudication~~  
24 ~~establishes the line in another place.]~~

1           SECTION 2. The change in law made by this Act applies only  
2 to a suit or administrative proceeding filed on or after the  
3 effective date of this Act. A suit or administrative proceeding  
4 filed before the effective date of this Act is governed by the law  
5 in effect on the date the suit or proceeding was filed, and the  
6 former law is continued in effect for that purpose.

7           SECTION 3. This Act takes effect September 1, 2021.