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SECTION 1. Sections 33.002, 33.012, 33.063, and 33.102, Natural Resources Code, are amended to read as follows:

Sec. 33.002. PURPOSE. The purpose of this chapter is to implement the policies stated in Section 33.001 [~~of this code~~] by delegating to the board, assisted by the appropriate [~~planning division and other~~] staff of the land office, certain responsibilities and duties with respect to the management of the surface estate in coastal public land.

Sec. 33.012. LAND OFFICE TO ASSIST BOARD. The appropriate [~~planning division and other~~] staff of the land office shall assist the board in the discharge of its responsibilities and duties under this chapter.

Sec. 33.063. FEES. The board may prescribe reasonable filing fees and fees for granting leases, easements, [~~and~~] permits, and other interests in or rights to use coastal public land.

Sec. 33.102. CONTENTS OF APPLICATION. The application to acquire rights in coastal public land shall include any information the board considers necessary to process the application, including information necessary to evaluate the purpose for which the land is to be used [:-
[~~(1) an adequate legal description of the land in which the rights are sought;~~
[~~(2) a statement of the rights sought;~~
[~~(3) a statement of the purpose or purposes for which the land is to be used;~~
[~~(4) a description of the nature and extent of the improvements, if any, which will be made on the land;~~

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~~[(5) an estimate of the time within which any improvements to be made will be completed; and
[(6) any additional information the board considers necessary, including, in the case of any application for approval of construction, modification, repair, or removal of a structure, a description of all plans for any filling, dumping, dredging, or excavating to be done].~~

SECTION 2. Section 33.103(a), Natural Resources Code, is amended to read as follows:

(a) The board may grant the following interests in coastal public land for the indicated purposes:

- (1) leases for public purposes;
- (2) easements for purposes connected with:
 - (A) ownership of littoral property; or
 - (B) the operation of a facility operated by an existing channel and dock corporation that was issued articles of incorporation under Chapters 13 and 14, Title 32, Revised Statutes;
- (3) permits authorizing limited continued use of previously unauthorized structures on coastal public land not connected with ownership of littoral property; ~~[and]~~
- (4) channel easements to the holder of any surface or mineral interest in coastal public land for purposes necessary or appropriate to the use of the interests; and
- (5) subject to Section 33.001(g), any other interest in coastal public land for any purpose if the board determines that the grant is in the best interest of the state.

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SECTION 3. Sections 33.104 and 33.105, Natural Resources Code, are amended to read as follows:

Sec. 33.104. DETERMINATION OF TERMS OF GRANT; CONSUMMATION OF TRANSACTION ~~[PROCESSING APPLICATION]~~. ~~[(a) On receiving an application, the board may circulate it for review and comment to the member agencies of the Interagency Natural Resources Council or its successor.~~

~~[(b) The board shall determine whether the proposed application should be granted not less than 30 days nor more than 90 days after the application is received.~~

~~[(e)] If the board approves the application [is granted], the board shall determine the terms [reasonable term], conditions, and consideration for the grant of an interest in or right to use coastal public land and may consummate the transaction.~~

Sec. 33.105. PERSONS TO WHOM INTEREST IN LAND MAY BE GRANTED ~~[LEASED]~~. The board may grant to any person an interest in [lease] coastal public land if the board determines that the grant is in the best interest of the state ~~[to:~~

~~[(1) the Parks and Wildlife Department or to any eligible city or county for public recreational purposes;~~

~~[(2) the Parks and Wildlife Department for management of estuarine preserves;~~

~~[(3) any nonprofit, tax-exempt environmental organization approved by the board for the purpose of managing a wildlife refuge; and~~

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~~[(4) any scientific or educational organization or institution for conducting scientific research].~~

SECTION 4. Section 33.605(a), Natural Resources Code, is amended to read as follows:

(a) Money in the account may be used for any action authorized by this subchapter ~~[, except for a restoration project authorized by Section 33.613].~~

SECTION 4. Sections 33.604 and 33.605, Natural Resources Code, are amended to read as follows:

Sec. 33.604. COASTAL EROSION RESPONSE ACCOUNT. (a) The coastal erosion response account is an account in the general revenue fund that may be appropriated only to the commissioner and used only for the purpose of implementing this subchapter and administration of the coastal management program as provided in Subchapter F.

(b) The account consists of:

- (1) all money appropriated for the purposes of this subchapter;
- (2) grants to this state from the United States for the purposes of this subchapter; ~~[and]~~
- (3) all money received by this state from the sale of dredged material; and
- (4) penalties or costs collected under Section 61.0184 or 63.1814.

(c) The account is exempt from the application of Section 403.095, Government Code.

Sec. 33.605. USES OF ACCOUNT. (a) Money in the account may be used for:

- (1) any action authorized by this subchapter; and
- (2) the administration of the coastal management program as provided in Subchapter F [, except for a restoration project authorized by Section 33.613].

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(b) The commissioner must approve an expenditure from the account. In determining whether to approve an expenditure for a study or project, the commissioner shall consider:

- (1) the amount of money in the account;
- (2) the feasibility and cost-effectiveness of the study or project;
- (3) the locations of other existing or proposed erosion response projects;
- (4) the needs in other critical coastal erosion areas;
- (5) the effect of the study or project on public or private property; and
- (6) if the site to be studied or project to be conducted will be located within the jurisdiction of a local government subject to Chapter 61 or 63:
 - (A) [;] whether the local government is adequately administering those chapters; and
 - (B) the building set-back line established by the local government under Section 33.607.

No equivalent provision.

SECTION 5. The heading to Section 33.607, Natural Resources Code, is amended to read as follows:
Sec. 33.607. COASTAL EROSION PUBLIC AWARENESS AND EDUCATION; LOCAL GOVERNMENT PLANNING AND REGULATION.

No equivalent provision.

SECTION 6. Section 33.607, Natural Resources Code, is amended by amending Subsection (e) and adding

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Subsections (f), (g), (h), and (i) to read as follows:

(e) A local government subject to Chapter 61 or 63 may ~~[is encouraged to]~~ use historical erosion data to prepare a plan for reducing public expenditures for erosion and storm damage losses to public and private property, including public beaches, by establishing and implementing a building set-back line that will accommodate a shoreline retreat. The local government shall hold a public educational meeting on the plan before proposing to implement it through the plans, orders, or ordinances provided by Chapters 61 and 63.

(f) A plan for reducing public expenditures for erosion and storm damage losses to public and private property that includes the establishment and implementation of a building set-back line under this section may:

(1) preserve and enhance the public's right of access to and use of the public beach;

(2) preserve critical sand dunes for natural storm protection and conservation purposes;

(3) establish a building set-back line no further landward than the dune protection line established by the local government under Chapter 63;

(4) provide for the prohibition of new construction seaward of the building set-back line; and

(5) provide for the acquisition of fee title to or a lesser interest in property seaward of the building set-back line.

(g) A county may establish and implement a building set-back line under this section only outside the corporate limits of a municipality.

(h) The commissioner may adopt rules for the

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establishment and implementation of a building set-back line under this section.

(i) Chapter 2007, Government Code, does not apply to a rule or local government order or ordinance authorized by this section.

No equivalent provision.

SECTION 7. Section 33.651(4), Natural Resources Code, is amended to read as follows:

(4) "Coastal improvement project" means a project to improve access to a public beach by:

(A) acquiring fee title to property or a right of public access to a public beach;

(B) constructing or maintaining public roads, parking, or other facilities in aid of public access to or use of a public beach; ~~[or]~~

(C) requiring a landowner, as prescribed by land office rules, to restore land affected by coastal erosion to its original boundaries; or

(D) implementing a building set-back line established under Section 33.607.

No equivalent provision.

SECTION 8. Section 33.656, Natural Resources Code, is amended to read as follows:

Sec. 33.656. PROJECTS THAT QUALIFY FOR FUNDING. To qualify for funding under this subchapter, a project must:

(1) be sponsored by a coastal county;

(2) be located within the sponsoring coastal county

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along or adjacent to the shore of the Gulf of Mexico, an inland bay, or a connecting channel between the Gulf of Mexico and an inland bay;
(3) be accessible by public roads or a common carrier ferry;
(4) be identified and approved for funding by a coastal county and the land office; and
(5) require more than \$5 million to complete, as estimated by the land office, unless the project implements a building set-back line established under Section 33.607.

No equivalent provision.

SECTION 9. Section 33.659(a), Natural Resources Code, is amended to read as follows:
(a) In addition to all other powers that a coastal county has under general law, a coastal county has the rights, powers, privileges, authority, and functions that are necessary or convenient to:
(1) the designing, engineering, acquiring, constructing, improving, maintaining, extending, repairing, replacing, monitoring, removing, administering, and financing of a qualified project located in a coastal county; ~~and~~
(2) the funding of a reserve or other fund relating to bonds; and
(3) the establishment and implementation of a building set-back line under Section 33.607.

No equivalent provision.

SECTION 10. Section 61.011(d), Natural Resources

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Code, is amended to read as follows:

(d) The commissioner shall promulgate rules, consistent with the policies established in this section, on the following matters only:

(1) acquisition by local governments or other appropriate entities or public dedication of access ways sufficient to provide adequate public ingress and egress to and from the beach within the area described in Subdivision (6);

(2) protection of the public easement from erosion or reduction caused by development or other activities on adjacent land and beach cleanup and maintenance;

(3) local government prohibitions of vehicular traffic on public beaches, provision of off-beach parking, and other minimum measures needed to mitigate for any adverse effect on public access and dune areas;

(4) imposition of beach access, user, or parking fees and reasonable exercises of the police power by local governments with respect to public beaches;

(5) contents and certification of beach access and use plans and standards for local government review of construction on land adjacent to and landward of public beaches, including procedures for expedited review of beach access and use plans under Section 61.015;

(6) construction on land adjacent to and landward of public beaches and lying in the area either up to the first public road generally parallel to the beach or to any closer public road not parallel to the beach, or to within 1,000 feet of mean high tide, whichever is greater, that affects or may affect public access to and use of public

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beaches; ~~and~~
(7) the temporary suspension under Section 61.0185 of enforcement of the prohibition against encroachments on and interferences with the public beach easement and the ability of a property owner to make repairs to a house while a suspension is in effect;
(8) the determination of the line of vegetation or natural line of vegetation;
(9) the factors to be considered in determining whether a structure, improvement, obstruction, barrier, or hazard on the public beach:
(A) constitutes an imminent hazard to safety, health, or public welfare; or
(B) substantially interferes with the free and unrestricted right of the public to enter or leave the public beach or traverse any part of the public beach; and
(10) the procedures for determining whether a structure is not insurable property for purposes of Section 2210.004, Insurance Code, because of the factors listed in Subsection (h) of that section.

No equivalent provision.

SECTION 11. Sections 61.015(b) and (c), Natural Resources Code, are amended to read as follows:
(b) Local governments shall submit proposed beach access and use plans to the commissioner for certification as to compliance with such policies and rules. The commissioner shall act on a local government's proposed beach access and use plan within 90 ~~60~~ days of submission by either approving the plan

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or denying certification. In the event of denial, the commissioner shall send the proposed plan back to the originating local government with a statement of specific objections and the reasons for denial, along with suggested modifications. On receipt, the local government shall revise and resubmit the plan. The commissioner's certification of local government plans shall be by adoption into the rules under Section 61.011.

(c) A littoral owner proposing construction adjacent to and landward of a public beach in the area described in Section 61.011(d)(6) shall submit a development plan to the appropriate local government. The local government shall forward a development plan for small-scale construction activity that includes 5,000 square feet or less or habitable structures two stories or less in height to the commissioner no less than 10 working days prior to acting on the development plan. The local government shall forward a development plan for large-scale construction activity that includes more than 5,000 square feet or habitable structures more than two stories in height to the commissioner no less than 30 working days prior to acting on the development plan. The commissioner may submit comments on the proposed construction to the local government.

No equivalent provision.

SECTION 12. Sections 61.018(b) and (c), Natural Resources Code, are amended to read as follows:

(b) In the same suit, the attorney general, the commissioner, county attorney, district attorney, or

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criminal district attorney may recover penalties and the costs of removing any improvement, obstruction, barrier, or other encroachment if it is removed by public authorities pursuant to an order of the court or a removal order issued by the commissioner as provided by Section 61.0183.

(c) A person who violates this chapter or a removal order issued by the commissioner as provided by Section 61.0183 is liable for a civil penalty of not less than \$50 nor more than \$2,000 [~~\$1,000~~]. Each day the violation occurs or continues is a separate violation.

No equivalent provision.

SECTION 13. Subchapter B, Chapter 61, Natural Resources Code, is amended by adding Sections 61.0181, 61.0182, 61.0183, and 61.0184 to read as follows:

Sec. 61.0181. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty against a person who violates this chapter or a rule adopted under this chapter in the amount provided by Section 61.018(c) for a civil penalty. In determining the amount of the penalty, the commissioner shall consider:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation and the hazard or damage caused thereby;
- (2) the degree of cooperation and quality of response;
- (3) the degree of culpability and history of previous violations by the person subject to the penalty;
- (4) the amount necessary to deter future violations; and

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(5) any other matter that justice requires.
Sec. 61.0182. ENFORCEMENT PROVISIONS CUMULATIVE. This subchapter is cumulative of all other applicable penalties, remedies, and enforcement and liability provisions.
Sec. 61.0183. REMOVAL OF CERTAIN STRUCTURES, IMPROVEMENTS, OBSTRUCTIONS, BARRIERS, AND HAZARDS ON PUBLIC BEACH. (a) The commissioner may order the removal of a structure, improvement, obstruction, barrier, or hazard from a public beach if the commissioner finds the structure, improvement, obstruction, barrier, or hazard to be on the public beach as defined by Section 61.013(c) and:
(1) the structure, improvement, obstruction, barrier, or hazard was constructed or placed on the beach in a manner that is inconsistent with the local government's beach access and use plan; or
(2) the structure, improvement, obstruction, or barrier constitutes an imminent hazard to safety, health, or public welfare.
(b) The decision to remove a structure, improvement, obstruction, barrier, or hazard under this section is discretionary with the commissioner. This section does not impose a duty on the state to remove a structure, improvement, obstruction, barrier, or hazard or to remedy or warn of a hazardous condition on the public beach.
(c) The commissioner may contract for the removal and disposal of a structure, improvement, obstruction,

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barrier, or hazard under this section and may pay the costs of removal from money appropriated by the legislature.

Sec. 61.0184. NOTICE REQUIREMENTS; ORDERS AND HEARINGS. (a) The commissioner shall make a determination that a structure is located on the public beach, assess an administrative penalty, and pursue the removal of a structure, improvement, obstruction, barrier, or hazard from a public beach in accordance with this section.

(b) Before the commissioner may notify the Texas Windstorm Insurance Association as provided by Section 2210.004, Insurance Code, regarding the status of property, the commissioner must give written notice and an opportunity for a hearing to a person who is constructing, maintains, controls, owns, or possesses the structure, improvement, obstruction, barrier, or hazard on the public beach. The notice must state that:

(1) the commissioner finds that a specific structure is located on the public beach as determined under this chapter, and:

(A) constitutes an imminent hazard to safety, health, or public welfare; or

(B) substantially interferes with the free and unrestricted right of the public to enter or leave the public beach or traverse any part of the public beach;

(2) the commissioner intends to notify the Texas Windstorm Insurance Association of a determination in accordance with Section 2210.004, Insurance Code; and

(3) the person who is constructing, maintains, controls,

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owns, or possesses the structure, improvement, obstruction, barrier, or hazard located on the public beach may submit, not later than the 30th day after the date on which the notice is served, written request for a hearing to contest the determination.

(c) Before the commissioner may order the removal of a structure, improvement, obstruction, barrier, or hazard under Section 61.0183 or impose an administrative penalty under Section 61.0181, the commissioner must provide written notice to the person who is constructing, maintains, controls, owns, or possesses the structure, improvement, obstruction, barrier, or hazard. The notice must:

(1) describe the specific structure, improvement, obstruction, barrier, or hazard that violates this subchapter;

(2) state that the person who is constructing, maintains, controls, owns, or possesses the structure, improvement, obstruction, barrier, or hazard is required to remove the structure, improvement, obstruction, barrier, or hazard:

(A) not later than the 30th day after the date on which the notice is served, if the structure, improvement, obstruction, barrier, or hazard is obstructing access to or use of the public beach; or

(B) within a reasonable time specified by the commissioner if the structure, improvement, obstruction, barrier, or hazard is an imminent and unreasonable threat to public health, safety, or welfare;

(3) state that failure to remove the structure, improvement, obstruction, barrier, or hazard may result

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in liability for a civil penalty under Section 61.018(c), removal by the commissioner and liability for the costs of removal, or any combination of those remedies; and
(4) state that the person who is constructing, maintains, controls, owns, or possesses the structure, improvement, obstruction, barrier, or hazard may submit, not later than the 30th day after the date on which the notice is served, written request for a hearing.
(d) A person is considered to be the person who owns, maintains, controls, or possesses an improvement, obstruction, barrier, or other encroachment on the public beach for purposes of this section if the person is the person who most recently owned, maintained, controlled, or possessed the improvement, obstruction, barrier, or other encroachment on the public beach.
(e) The notice required by Subsection (b) must be given:
(1) by service in person, by registered or certified mail, return receipt requested, or by priority mail; or
(2) if personal service cannot be obtained or the address of the person responsible is unknown, by posting a copy of the notice on the structure, improvement, obstruction, barrier, or hazard and by publishing notice in a newspaper with general circulation in the county in which the structure, improvement, obstruction, barrier, or hazard is located at least two times within 10 consecutive days.
(f) The commissioner by rule may adopt procedures for a hearing under this section.
(g) The commissioner must grant a hearing before an administrative law judge employed by the State Office of

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Administrative Hearings if a hearing is requested. A person who does not request a hearing within 30 days after the date on which the notice is served waives all rights to judicial review of the commissioner's findings or orders and shall immediately remove the structure, improvement, obstruction, barrier, or hazard and pay any penalty assessed. If a hearing is held, the commissioner may issue a final order approving the proposal for decision submitted by the administrative law judge concerning a determination regarding whether a structure is not insurable property for purposes of Section 2210.004, Insurance Code, because of the factors listed in Subsection (h) of that section or concerning removal of the structure, improvement, obstruction, barrier, or hazard and payment of a penalty. The commissioner may change a finding of fact or conclusion of law made by the administrative law judge or may vacate or modify an order issued by the administrative judge in accordance with Section 2001.058, Government Code.

(h) A person may seek judicial review of a final order of the commissioner under this section in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code. The trial courts of this state shall give preference to an appeal of a final order of the commissioner under this section in the same manner as provided by Section 23.101(a), Government Code, for an appeal of a final order of the commissioner under Section 51.3021 of this code.

(i) If the person who is constructing, maintains, controls,

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owns, or possesses the structure, improvement, obstruction, barrier, or hazard does not pay assessed penalties, removal costs, and other assessed fees and expenses on or before the 30th day after the date of entry of a final order assessing the penalties, costs, and expenses, the commissioner may:

(1) sell salvageable parts of the structure, improvement, obstruction, barrier, or hazard to offset those costs;

(2) request that the attorney general institute civil proceedings to collect the penalties, costs of removal, and other fees and expenses remaining unpaid; or

(3) use any combination of the remedies prescribed by this subsection, or other remedies authorized by law, to collect the unpaid penalties, costs of removal, and other fees and expenses assessed because of the structure, improvement, obstruction, barrier, or hazard on the public beach and its removal by the commissioner.

(j) Penalties or costs collected under this section shall be deposited in the coastal erosion response account as established under Section 33.604.

(k) Notwithstanding any other provision of this subchapter, if a structure that is the subject of an order for removal under Section 61.0183 or an administrative penalty under Section 61.0181 has been used as a permanent, temporary, or occasional residential dwelling by at least one person at any time during the year before the date on which the order is issued or the penalty is assessed:

(1) the notice required by Subsection (c) must state that the person who is constructing, maintains, controls,

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owns, or possesses the structure may submit, not later than the 90th day after the date on which the notice is served, written request for a hearing;

(2) if the person does not request a hearing within 90 days after the date on which the notice is served, the person waives all rights to judicial review of the commissioner's findings or orders and shall immediately remove the structure and pay any penalty assessed; and

(3) the amount of the administrative penalty assessed may not exceed \$1,000 for each day the violation occurs or continues.

No equivalent provision.

SECTION 14. Sections 61.020 and 61.025, Natural Resources Code, are amended to read as follows:

Sec. 61.020. PRIMA FACIE EVIDENCE. (a) In a suit or administrative proceeding brought or defended under this subchapter or whose determination is affected by this subchapter, a showing that the area in question is located in the area from mean low tide to the line of vegetation is prima facie evidence that:

(1) the title of the littoral owner does not include the right to prevent the public from using the area for ingress and egress to the sea; and

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

(b) The determination of the location of the line of vegetation by the commissioner as provided by Sections 61.016 and 61.017 constitutes prima facie evidence of

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the landward boundary of the area subject to the public easement until a court adjudication establishes the line in another place.

Sec. 61.025. DISCLOSURE TO PURCHASER OF PROPERTY. (a) Except as provided by Subsection (b), a [A] person who sells or conveys an interest, other than a mineral, leasehold, or security interest, in real property located seaward of the Gulf Intracoastal Waterway to its southernmost point and then seaward of the longitudinal line also known as 97 degrees, 12', 19" which runs southerly to the international boundary from the intersection of the centerline of the Gulf Intracoastal Waterway and the Brownsville Ship Channel must include in any executory contract for conveyance a [the following] statement in substantially the following form:
CONCERNING THE PROPERTY AT

DISCLOSURE NOTICE CONCERNING LEGAL AND ECONOMIC RISKS

OF PURCHASING COASTAL REAL PROPERTY NEAR A BEACH

WARNING: THE FOLLOWING NOTICE OF POTENTIAL RISKS OF ECONOMIC LOSS TO YOU AS THE PURCHASER OF COASTAL REAL PROPERTY IS REQUIRED BY STATE LAW.

READ THIS NOTICE CAREFULLY. DO NOT SIGN THIS CONTRACT UNTIL YOU FULLY UNDERSTAND THE RISKS YOU ARE ASSUMING.

BY PURCHASING THIS PROPERTY, YOU MAY BE ASSUMING ECONOMIC RISKS OVER AND

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ABOVE THE RISKS INVOLVED IN PURCHASING INLAND REAL PROPERTY.

IF YOU OWN A STRUCTURE LOCATED ON COASTAL REAL PROPERTY NEAR A GULF COAST BEACH, IT MAY COME TO BE LOCATED ON THE PUBLIC BEACH BECAUSE OF COASTAL EROSION AND STORM EVENTS.

AS THE OWNER OF A STRUCTURE LOCATED ON THE PUBLIC BEACH, YOU COULD BE SUED BY THE STATE OF TEXAS AND ORDERED TO REMOVE THE STRUCTURE.

THE COSTS OF REMOVING A STRUCTURE FROM THE PUBLIC BEACH AND ANY OTHER ECONOMIC LOSS INCURRED BECAUSE OF A REMOVAL ORDER WOULD BE SOLELY YOUR RESPONSIBILITY.

The real property described in this contract is located seaward of the Gulf Intracoastal Waterway to its southernmost point and then seaward of the longitudinal line also known as 97 degrees, 12', 19" which runs southerly to the international boundary from the intersection of the centerline of the Gulf Intracoastal Waterway and the Brownsville Ship Channel. If the property is in close proximity to a beach fronting the Gulf of Mexico, the purchaser is hereby advised that the public has acquired a right of use or easement to or over the area of any public beach by prescription, dedication, or presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom.

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The extreme seaward boundary of natural vegetation that spreads continuously inland customarily marks the landward boundary of the public easement. If there is no clearly marked natural vegetation line, the landward boundary of the easement is as provided by Sections 61.016 and 61.017, Natural Resources Code.

Much of the Gulf of Mexico coastline is eroding at rates of more than five feet per year. Erosion rates for all Texas Gulf property subject to the open beaches act are available from the Texas General Land Office.

State law prohibits any obstruction, barrier, restraint, or interference with the use of the public easement, including the placement of structures seaward of the landward boundary of the easement. OWNERS OF STRUCTURES ERECTED SEAWARD OF THE VEGETATION LINE (OR OTHER APPLICABLE EASEMENT BOUNDARY) OR THAT BECOME SEAWARD OF THE VEGETATION LINE AS A RESULT OF ~~[NATURAL]~~ PROCESSES SUCH AS SHORELINE EROSION ARE SUBJECT TO A LAWSUIT BY THE STATE OF TEXAS TO REMOVE THE STRUCTURES.

The purchaser is hereby notified that the purchaser should:

- (1) determine the rate of shoreline erosion in the vicinity of the real property; and
- (2) seek the advice of an attorney or other qualified person before executing this contract or instrument of conveyance as to the relevance of these statutes and facts to the value of the property the purchaser is hereby

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purchasing or contracting to purchase.

(b) If the statement is not included in the executory contract for conveyance or there is no executory contract for conveyance, the statement must be delivered to, and receipt thereof acknowledged by, the purchaser not later than 10 calendar days prior to closing the transaction.

(c) Failure to comply with Subsection (a) or (b), as applicable, [include the statement in an executory contract for conveyance] shall be grounds for the purchaser to terminate the ~~such~~ contract or agreement to convey, and upon termination any earnest money shall be returned to the party making the deposit.

(d) A seller commits [Failure to provide this statement prior to closing, either in the executory contract for conveyance or in a separate written statement, shall constitute] a deceptive act under Section 17.46, Business & Commerce Code, if the seller fails to comply with Subsection (a) or Subsection (b), as applicable.

(e) This section, or the failure of a person to give or receive the notice in the manner required by this section, does not diminish or modify the beach access and use rights of the public acquired through statute or under common law.

No equivalent provision.

SECTION 15. Section 63.002, Natural Resources Code, is amended by adding Subdivision (6) to read as follows:
(6) "Restoration" means the repair or replacement of dunes or dune vegetation.

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No equivalent provision.

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SECTION 16. Section 63.054(c), Natural Resources Code, is amended to read as follows:

(c) Each county or municipality administering this chapter shall establish procedures and requirements governing the review and approval of dune permits, and these procedures and requirements shall be submitted to the commissioner for certification to determine whether the procedures and requirements are in compliance with rules and policies adopted under Section 63.121. The commissioner shall act on a county or municipality's proposed dune protection plan not later than the 90th day after the date the plan is submitted by approving the plan or denying certification. If certification is denied, the commissioner shall return the proposed plan to the originating local government with a statement of specific objections and the reasons for denial, along with suggested modifications. On receipt, the county or municipality shall revise and resubmit the plan. The commissioner must certify a county or municipality's procedures and requirements under this section in accordance with rules adopted under Section 63.121 [eomments].

CONFERENCE

No equivalent provision.

SECTION 17. Section 63.056(a), Natural Resources Code, is amended to read as follows:

(a) After receiving an application for a permit to perform any of the acts prohibited in Section 63.091 in connection with small-scale construction activity that includes 5,000 square feet or less or habitable structures

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two stories in height or less [of this code], the commissioners court or the governing body of the municipality shall notify the commissioner by sending, not less than 10 working days before the date of the public hearing on the application, notice of the hearing and a copy of the application. After receiving an application for a permit to perform any of the acts prohibited in Section 63.091 in connection with large-scale construction activity that includes more than 5,000 square feet or habitable structures more than two stories in height, the commissioners court or the governing body of the municipality shall notify the commissioner by sending, not less than 30 working days before the date of the public hearing on the application, notice of the hearing and a copy of the application.

No equivalent provision.

SECTION 18. Section 63.121, Natural Resources Code, is amended to read as follows:

Sec. 63.121. IDENTIFICATION OF CRITICAL DUNE AREAS; RULES. (a) The commissioner, in his role as trustee of the public land of this state, shall identify the critical dune areas within 1,000 feet of mean high tide that are essential to the protection of state-owned land, public beaches, and submerged land.

(b) The commissioner shall promulgate rules for:

(1) the identification and protection of critical dune areas; and

(2) the certification of procedures and requirements governing the review and approval of dune permits by a

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county or municipality.

No equivalent provision.

SECTION 19. Section 63.181(b), Natural Resources Code, is amended to read as follows:

(b) A person who violates this chapter or any rule, permit, or order under this chapter is liable for a civil penalty of not less than \$50 nor more than ~~\$2,000~~ [\$1,000]. Each day that a violation occurs or continues constitutes a separate offense. A violation of Section 63.091 is considered to be a continuing violation from the date of the initial unauthorized conduct until the earlier of:

- (1) the date on which a proper permit is issued authorizing the conduct; or
- (2) the date on which restoration of dunes or dune vegetation damaged by the violation is completed.

No equivalent provision.

SECTION 20. Subchapter G, Chapter 63, Natural Resources Code, is amended by adding Sections 63.1811, 63.1812, 63.1813, and 63.1814 to read as follows:

Sec. 63.1811. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty for a violation of Section 63.091 or any rule, permit, or order issued under this chapter in the amount established by Section 63.181(b) for a civil penalty. In determining the amount of the penalty, the commissioner shall consider:

- (1) the seriousness of the violation, including the nature,

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circumstances, extent, and gravity of the violation and the hazard or damage caused thereby;

(2) the degree of cooperation and quality of response;

(3) the degree of culpability and history of previous violations by the person subject to the penalty;

(4) the amount necessary to deter future violations; and

(5) any other matter that justice requires.

Sec. 63.1812. ENFORCEMENT PROVISIONS CUMULATIVE. This subchapter is cumulative of all other applicable penalties, remedies, and enforcement and liability provisions.

Sec. 63.1813. MITIGATION FOR DAMAGE, DESTRUCTION, OR REMOVAL OF DUNE OR DUNE VEGETATION WITHOUT PERMIT. (a) The commissioner may order restoration for the damage, destruction, or removal of a sand dune or a portion of a sand dune or the killing, destruction, or removal of any vegetation growing on a sand dune seaward of the dune protection line or within a critical dune area in violation of this chapter or any rule, permit, or order issued under this chapter.

(b) The decision to require restoration under this section is discretionary with the commissioner. This section does not impose a duty on the state to order restoration.

(c) The commissioner may contract for the restoration required under this section and may pay the costs of restoration from money appropriated by the legislature.

Sec. 63.1814. NOTICE REQUIREMENTS; ORDERS AND HEARINGS. (a) The commissioner shall assess an administrative penalty and pursue restoration in

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accordance with this section.

(b) Before the commissioner may order restoration under Section 63.1813 or assess an administrative penalty under Section 63.1811, the commissioner must give written notice to a person who is taking or has taken actions that violate Section 63.091 or any rule, permit, or order issued under this chapter. The notice must state:

(1) the specific conduct that violates Section 63.091 or any rule, permit, or order issued under this chapter;

(2) that the person who is engaged in or has been engaged in the conduct that violates Section 63.091 or any rule, permit, or order issued under this chapter must perform restoration for the damage caused by the violation not later than the 60th day after the date on which the notice is served;

(3) that failure to perform restoration for the damage caused by the violation in accordance with the commissioner's order may result in liability for a civil penalty under Section 63.181(b) in an amount specified, restoration contracted or undertaken by the commissioner and liability for the costs of restoration, or any combination of those remedies; and

(4) that the person who is engaging in or has engaged in conduct that violates Section 63.091 or any rule, permit, or order issued under this chapter may submit, not later than the 60th day after the date on which the notice is served, a written request for a hearing.

(c) A person is considered to be engaging in or to have engaged in conduct that violates Section 63.091 or any rule, permit, or order issued under this chapter for

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purposes of this section if the person is the person who most recently owned, maintained, controlled, or possessed the real property on which the conduct occurred.

(d) The notice required by Subsection (b) must be given:

(1) by service in person, by registered or certified mail, return receipt requested, or by priority mail; or

(2) if personal service cannot be obtained or the address of the person responsible is unknown, by posting a copy of the written notice at the site where the conduct was engaged in and by publishing notice in a newspaper with general circulation in the county in which the site is located at least two times within 10 consecutive days.

(e) The commissioner by rule may adopt procedures for a hearing under this section.

(f) The commissioner must grant a hearing before an administrative law judge employed by the State Office of Administrative Hearings if a hearing is requested. A person who does not request a hearing within 60 days after the date on which the notice is served waives all rights to judicial review of the commissioner's findings or orders and shall immediately initiate mitigation and pay any penalty assessed. If a hearing is held, the commissioner may issue a final order approving the proposal for decision submitted by the administrative law judge concerning mitigation and payment of a penalty. The commissioner may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge in accordance with Section

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2001.058, Government Code.

(g) A person may seek judicial review of a final order of the commissioner under this section in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code. The trial courts of this state shall give preference to an appeal of a final order of the commissioner under this section in the same manner as provided by Section 23.101(a), Government Code, for an appeal of a final order of the commissioner under Section 51.3021 of this code.

(h) If the person who is engaged in or has been engaged in conduct that violated Section 63.091 or any rule, permit, or order issued under this chapter does not pay assessed penalties, mitigation costs, and other assessed fees and expenses on or before the 60th day after the date of entry of a final order assessing the penalties, costs, and expenses, the commissioner may:

(1) request that the attorney general institute civil proceedings to collect the penalties, costs of restoration, and other fees and expenses remaining unpaid; or

(2) use any combination of the remedies prescribed by this section, or other remedies authorized by law, to collect the unpaid penalties, costs of restoration, and other fees and expenses assessed because of unauthorized conduct and its mitigation by the commissioner.

(i) Penalties or costs collected under this section shall be deposited in the coastal erosion response account established under Section 33.604.

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No equivalent provision.

SECTION 21. Section 2210.004, Insurance Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Except as provided by Subsection (h), for [For] purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail or fire and explosion, as appropriate, as determined by normal underwriting standards.

(h) For purposes of this chapter, a structure is not insurable property if the commissioner of the General Land Office notifies the association of a determination that the structure is located on the public beach under procedures established under Section 61.011, Natural Resources Code, and that the structure:

(1) constitutes an imminent hazard to safety, health, or public welfare; or

(2) substantially interferes with the free and unrestricted right of the public to enter or leave the public beach or traverse any part of the public beach.

No equivalent provision.

SECTION 22. Section 5.008(b), Property Code, is amended to read as follows:

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(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE
CONCERNING THE PROPERTY
AT _____
(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller ___ is ___ is not occupying the Property.
If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:
Write Yes (Y), No (N), or Unknown (U).
Roof Type: _____ Age: _____
(approx)

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair? ___ Yes ___ No ___ Unknown.
If yes, then describe. (Attach additional sheets if necessary):

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2. Are you (Seller) aware of any known defect/malfunctions in any of the following?
Write Yes (Y) if you are aware, write No (N) if you are not aware.

_____ Other Structural Components
(Describe): _____

If the answer to any of the above is yes, explain. (Attach additional _____ sheets if necessary): _____

3. Are you (Seller) aware of any of the following conditions?
Write Yes (Y) if you are aware, write No (N) if you are not aware.
If the answer to any of the above is yes, explain. (Attach additional _____ sheets if necessary): _____

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4. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair? ___
Yes (if you are aware) ___ No (if you are not aware). If yes, explain (attach additional sheets as necessary). _____

5. Are you (Seller) aware of any of the following?
Write Yes (Y) if you aware, write No (N) if you are not aware.

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): _____

6. If the property is located in a coastal area that is seaward of the Gulf Intracoastal Waterway or within 1,000 feet of the mean high tide bordering the Gulf of Mexico, the property may be subject to the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63, Natural Resources Code, respectively) and a beachfront construction certificate or dune protection permit may be required for repairs or improvements. Contact the local government with ordinance authority over construction adjacent to public beaches for more information.

Date Signature of Seller

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The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

Date Signature of Purchaser

No equivalent provision.

SECTION 23. Not later than January 1, 2008, the commissioner of the General Land Office shall adopt rules required by Sections 61.011 and 63.121, Natural Resources Code, as amended by this Act.

SECTION 5. Sections 33.014, 33.110(b), and 33.613, Natural Resources Code, are repealed.

SECTION 24. Same as House version.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

SECTION 25. This Act takes effect September 1, 2007.