

BILL ANALYSIS

Senate Research Center
81R22219 TRH-D

H.B. 3306
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hurricane Ike left several hundred abandoned vessels and structures in coastal waters and demonstrated the need for the commissioner of the General Land Office (commissioner) to react quickly to identify, remove, and dispose of these vessels and structures in the most efficient manner possible. The Natural Resources Code authorizes the commissioner to, among other things, protect the coastal waters and adjacent shorelines by preventing spills and discharges of oil and by removing abandoned vessels and structures.

H.B. 3306 amends the Natural Resources Code to authorize the commissioner to include vehicles in the same provisions as derelict vessels or structures for the purpose of removal from coastal waters, provides language regarding handling a person who holds a security interest in such a vessel or structure, and establishes a system of identifying abandoned vessels and structures.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 40.003, Natural Resources Code, by adding Subdivisions (16-a) and (16-b), to define "no intrinsic value" and "numbered vessel."

SECTION 2. Amends Section 40.108, Natural Resources Code, by amending Subsections (b) and (d) and adding Subsections (d-1), (d-2), and (d-3), as follows:

(b) Authorizes the commissioner of the General Land Office (commissioner) to remove and dispose of or contract for the removal and disposal of any vessel or structure described in Subsection (a) (relating to a wrecked, derelict, or substantially dismantled structure or vessel that poses a certain threat) and to recover the costs of removal, storage, and disposal from the owner or operator of the vessel or structure. Creates an exception under Subsection (d-1). Makes a nonsubstantive change.

(d) Makes conforming and nonsubstantive changes.

(d-1) Requires that notice be given to the person in the manner provided by Section 40.254, if the commissioner has actual notice that a person holds a security interest in a vessel or structure subject to removal or disposal under this section. Authorizes the commissioner to remove and dispose of, or contract for the removal and disposal of, any vessel or structure described by Subsection (a) if the vessel or structure is not removed within a reasonable time as specified in the preliminary report under Section 40.254. Requires that the interest of the state in recovering removal, storage, and disposal costs have propriety over the interest of the holder of a security interest in a vessel or structure described by Subsection (a). Requires that proceeds from the sale of the vessel or structure in excess of the cost of removal, storage, and disposal be paid to the holder of the security interest in the vessel or structure in an amount not to exceed the amount necessary to satisfy the secured debt.

(d-2) Defines "structure."

(d-3) Requires the commissioner to make information on abandoned vessels and structures accessible on the General Land Office's (GLO) Internet website and in any other medium, as determined by the commissioner, to the public and to a person receiving notice as required by Section 40.254.

SECTION 3. Amends Section 40.254, Natural Resources Code, by amending Subsections (b-1), (c-1), and (d)-(g) and adding Subsection (c-2), as follows:

(b-1) Requires that the preliminary report issued by the commissioner regarding a violation or a need to remove a vessel or structure state the facts that support the commissioner's conclusion; in the case of a derelict vessel or structure, determine whether the vessel or structure is considered a numbered vessel or a vessel or structure that has no intrinsic value; recommend a certain combination of remedies; and if a penalty under Subdivision (3)(A) (relating to recommending that a penalty be imposed) is recommended, recommend the amount of the penalty. Makes nonsubstantive changes.

(c-1) Requires that the notice required by Subsection (c) (relating to a written notice that is required to be served by the commissioner to the person charged with the violation) be given by service in person or by registered or certified mail, return receipt requested, or if the personal service cannot be obtained or the address of the person is unknown, by posting a copy of the notice on the facility, vessel, or structure and by publishing notice on the Internet website of GLO and in the Texas Register, rather than a newspaper with general circulation in the county in which the facility, vessel, or structure is located, at least two times within 10 consecutive days.

(c-2) Requires that the notice required by Subsection (c) be given by posting a copy of the notice on a derelict vessel or structure if the derelict vessel or structure has been determined to have no intrinsic value under Subsection (b-1).

(d) Authorizes the person charged with the violation or a person claiming ownership of a vessel or structure for which notice is posted under Subsection (c-2), not later than the 20th day after the date on which the notice is served, to consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

(e)(1) Makes a conforming change.

(2) Requires the commissioner to serve written notice of the decision to the person in the same manner as provided for notice of the preliminary report if the commissioner takes the recommended action. Requires the person to comply with the order, including a removal order, and pay any penalty assessed.

(f)(1) Makes a conforming change.

(2)-(5) Makes no changes to these subdivisions.

(g)(1) Makes a conforming change.

(2) and (3) Makes no changes to these subdivisions.

SECTION 4. Effective date: September 1, 2009.