88R145 ANG-D

By:  Middleton S.B. No. 434

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 61.020.  BURDEN OF PROOF [~~PRIMA FACIE EVIDENCE~~]. [~~(a)~~] In a suit or administrative proceeding brought or defended under this subchapter or whose determination is affected by this subchapter pertaining to[~~, a showing that the area in question is located in~~] the area from mean low tide to the line of vegetation, the burden of proof is on the party seeking to establish [~~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; or [~~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 the landward boundary of the area subject to the public easement until a court adjudication establishes the line in another place.~~]

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

SECTION 3.  This Act takes effect September 1, 2023.