

By: Hayes

H.B. No. 4712

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. Sec. 61.0171, Natural Resources Code, is amended to read as follows:

Sec. 61.0171. TEMPORARY SUSPENSION OF LINE OF VEGETATION DETERMINATION. (a) The commissioner may, by order, suspend action on conducting a line of vegetation determination for a period of up to three years from the date the order is issued if the commissioner determines that the line of vegetation was obliterated as a result of a meteorological event. For the duration of the order, the ~~[public beach]~~ line of vegetation shall ~~[extend to]~~ be [located] a line 200 feet inland from the line of mean low tide as established by a licensed state land surveyor.

(b) An order issued under this section shall be:

(1) posted on the land office's Internet website; and  
(2) published by the land office as a miscellaneous document in the Texas Register. ~~[, and]~~

~~[(3) filed for record by the land office in the real property records of the county in which the area of beach subject to the order is located.]~~

(c) Issuance of an order under this section is purely within

the discretion of the commissioner. This section does not create:

(1) a duty on the part of the commissioner to issue an order related to the line of vegetation; or

(2) a private cause of action for:

(A) issuance of an order under this section; or

(B) failure to issue an order under this section.

(d) Chapter 2007, Government Code, does not apply to an order issued under this section.

(e) If the commissioner issues an order under this section, a limitations period established by statute, under common law, or in equity that may be asserted or claimed in any action under this chapter is suspended and does not run against this state, the public, or private land owners for the period the order is in effect.

(f) Following the expiration of an order issued under this section, the commissioner ~~[shall]~~ may make a determination regarding the line of vegetation in accordance with Sections 61.016 and 61.017~~[and taking into consideration the effect of the meteorological event on the location of the public beach easement]~~.

(g) The commissioner may consult with the Bureau of Economic Geology of The University of Texas at Austin or a licensed state land surveyor and consider other relevant factors when making a determination under Subsection (f) regarding the annual erosion rate for the area of beach subject to the order issued under this section.

~~[(h) The line of vegetation, as determined by the commissioner under Subsection (f), shall constitute the landward~~

~~boundary of the area subject to public easement until the line of vegetation moves landward due to a subsequent meteorological event, erosion, or public use, or until a final court adjudication establishes the line in another place.]~~

SECTION 2. Sec. 61.020, Natural Resources Code, is 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 the landward boundary of the area subject to the public easement until a court adjudication establishes the line in another place.

(c) The determination of the location of the line of vegetation by the commissioner as provided by Section 61.0171 does not constitute prima facie evidence of the landward boundary of the area subject to the public easement.

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