
DIGEST

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HB 113 Engrossed

2018 Regular Session

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Abstract: Provides for removal of objects in waterways by governmental entities and adjacent landowners.

Present law requires that within 30 days from written notice the object's owner present a plan to remove any object, including vessels, equipment, ship, barges, and machinery that has been left unattended, stored, junked, or abandoned in any waterway, whether navigable or not, on the banks of such waterways, or moored or tied off in a drainage ditch or canal or outfall canal. Authorizes the federal, state, or local governing authority to issue the written notice and are referred to in present law as an authority. Specifies that when the owner cannot be located a notice is published in the official journal of the parish in which the object is located stating the object will be removed in 30 days at the cost of the owner of the object. Proposed law retains present law.

Present law provides that if the object poses no immediate danger to life or property the owner has 30 days to present to the authority a plan for the removal of the object as soon as possible, considering factors of safety, cost, and efficiency in accomplishing the removal. Requires the authority to approve or reject the plan within 30 days from the date of submission.

Proposed law retains present law except changes the timing of the planned removal from as soon as possible to a date certain.

Proposed law provides an exception to present law for objects that are in customary fleeting, mooring, or docking areas, or those objects that are moving through navigation channels that may have a need for laying in on the banks and spoils of such channels on a temporary basis.

Present law provides that if the object is not removed timely or a plan for approval is not presented or approved by the authority, the authority may remove it at the cost of the owner and may sell or dispose of the object.

Proposed law retains present law and adds for the removal by the authority in the event the plan is not executed within the plan's timeline.

Proposed law authorizes the adjacent property owner to initiate litigation against the owner of the object when the object is sunken and the owner of the object fails to execute a plan approved by the authority and the authority does not have the object removed. Authorizes the court in such case to order the removal of the object pursuant to a plan offered by the adjacent property owner. Specifies that the owner of the object is responsible for any and all costs associated with the removal of the

object and for court costs.

Proposed law authorizes the adjacent property owner to initiate litigation against the owner of the object if the object is sunken and is situated in a manner that has a negative impact on the peaceful use and enjoyment of an adjacent property and affects the adjacent property owner's riparian rights. Authorizes the court in such case to order the removal of the object pursuant to a plan offered by either party.

Proposed law requires the plan consider the object's effect on the adjacent property, effect on the adjacent owner's riparian rights, and the immediacy of any danger the object poses to life or property as adopted or modified by the court. Specifies that the owner of the object is responsible for any and all costs associated with the removal of the object and for court costs.

(Amends R.S. 34:843(A)(1) and (B)(1); Adds R.S. 34:843(B)(3) and (4))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Provide a technical change.
2. Provide an exception to present law for objects which are in customary, fleeting, mooring, or docking areas, or those objects that are moving through navigation channels.
3. Clarify that when an object is sunken and the owner of the object fails to take the necessary steps to remove the object, the adjacent property owner may initiate litigation against the owner of the object.
4. Clarify that when the object is sunken and situated in a manner that negatively impacts the peaceful use and enjoyment and riparian rights of an adjacent property owner, the adjacent owner may initiate litigation against the owner of the object.