

2017 Regular Session

HOUSE BILL NO. 144

BY REPRESENTATIVE ZERINGUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COASTAL RESOURCES: Provides for real property interests for integrated coastal restoration projects

1 AN ACT

2 To amend and reenact R.S. 49:214.5.5, relative to integrated coastal restoration projects; to  
3 provide relative to immovable property interests that can be acquired by public  
4 entities for integrated coastal protection purposes; to provide for a term of  
5 acquisition of certain immovable property interests for integrated coastal protection;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 49:214.5.5 is hereby amended and reenacted to read as follows:

9 §214.5.5. Private property and public rights

10 A. Purpose: Recognizing that a substantial majority of the coastal lands in  
11 Louisiana are privately owned, it is anticipated that a significant portion of the  
12 integrated coastal protection projects funded through the Coastal Protection and  
13 Restoration Fund either will occur on or in some manner affect private property.

14 B. No rights whatsoever shall be created in the public, whether such rights  
15 be in the nature of ownership, servitude, or use, with respect to any private lands or  
16 waters utilized, enhanced, created, or otherwise affected by activities of any  
17 governmental agency, local, state, or federal, or any person contracting with same  
18 for the performance of any activities, funded in whole or in part, by expenditures  
19 from the Coastal Protection and Restoration Fund or expenditures of federal funds.

20 In the event legal proceedings are instituted by any person seeking recognition of a

1 right of ownership, servitude, or use in or over private property solely on the basis  
2 of the expenditure of funds from the Coastal Protection and Restoration Fund, the  
3 state shall indemnify and hold harmless the owner of such property for any cost,  
4 expense, or loss related to such proceeding, including court costs and attorney fees.

5 C. Notwithstanding any law or provision to the contrary, no full ownership  
6 interest in property shall be acquired for integrated coastal protection through any  
7 method by the state of Louisiana, the Coastal Protection and Restoration Authority,  
8 a levee district, a levee authority, a sponsoring authority, a political subdivision, or  
9 any other state, local, or federal entity, or their agents or employees, including but  
10 not limited to compensatory mitigation and ecosystem restoration purposes, unless  
11 such interest is voluntarily offered and agreed to in writing by owners with at least  
12 seventy-five percent ownership in the property or such entity seeking to acquire the  
13 property proves by clear and convincing evidence in a court of competent  
14 jurisdiction that a full ownership interest is the minimum interest necessary to carry  
15 out the purposes of integrated coastal protection for the specific project for which it  
16 is acquired.

17 D. Access rights, rights of use, servitudes, easements, or other property  
18 interests acquired for integrated coastal protection through any method by the state  
19 of Louisiana, the Coastal Protection and Restoration Authority, a levee district, a  
20 levee authority, a sponsoring authority, a political subdivision, or any other state,  
21 local, or federal entity, or their agents or employees, including but not limited to  
22 compensatory mitigation and ecosystem restoration purposes, shall be for a fixed  
23 term only and shall not be acquired in perpetuity unless such acquisition in  
24 perpetuity is voluntarily offered and agreed to in writing by owners with at least  
25 seventy-five percent ownership in the property. Furthermore, no fixed term for any  
26 access rights, rights of use, servitudes, easements, or other property interests  
27 acquired for integrated coastal protection shall exceed the life of the integrated  
28 coastal protection project for which it is acquired unless such term is voluntarily

1 offered and agreed to in writing by owners with at least seventy-five percent  
 2 ownership in the property.

3 E. The provisions of this Section shall not authorize acquisition of privately  
 4 owned mineral interest and the reservation of mineral interest shall be as provided  
 5 in R.S. 31:149. Additionally, any interest in property acquired under this Section  
 6 shall not transfer to the acquiring entity any claims, causes of action, or litigious  
 7 rights existing prior to the date of the acquisition but shall not extinguish the rights  
 8 of the owners of the property to exercise such claims, causes of action, or litigious  
 9 rights on the date of acquisition.

10 Section 2. This Act shall become effective upon signature by the governor or, if not  
 11 signed by the governor, upon expiration of the time for bills to become law without signature  
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 14 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 144 Engrossed

2017 Regular Session

Zeringue

**Abstract:** Provides relative to property interests for integrated coastal restoration projects.

Present law recognizes that a significant portion of the projects funded through the Coastal Protection and Restoration Fund either will occur on or affect private property.

Present law provides that no ownership or use rights of private land or water are created in the public by expenditures from the Coastal Protection and Restoration Fund or expenditures of federal funds. Proposed law retains this provision of present law.

Proposed law provides that no full ownership interest in property shall be acquired for integrated coastal protection by the state, the Coastal Protection and Restoration Authority (CPRA), a levee district, a levee authority, a sponsoring authority, a political subdivision, or any other state, local, or federal entity, or their agents or employees, unless such interest is voluntarily offered and agreed to in writing by owners with at least 75% ownership interest in the property or such entity seeking to acquire the property proves in a court that a full ownership interest is the minimum interest necessary to carry out the purposes of integrated coastal protection for the specific project for which it is acquired.

Proposed law further provides that access rights, rights of use, servitudes, easements, or other property interests acquired for integrated coastal protection by the state, the CPRA, a levee district, a levee authority, a sponsoring authority, a political subdivision, or any other

state, local, or federal entity, or their agents or employees, shall be for a fixed term only and shall not be acquired in perpetuity unless such acquisition in perpetuity is voluntarily offered and agreed to in writing by owners with at least 75% ownership interest in the property. Further provides that no fixed term for any access rights can exceed the life of the integrated coastal protection project for which it is acquired unless such term is voluntarily offered and agreed to in writing by owners with at least 75% ownership in the property.

Proposed law does not authorize acquisition of privately owned mineral interest and the reservation of mineral interest shall be as provided in present law.

Proposed law prohibits the transfer to the acquiring entity of any claims, causes of action, or litigious rights existing prior to the date of the acquisition but shall not extinguish the rights of the owners of the property to exercise such claims, causes of action, or litigious rights on the date of acquisition.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 49:214.5.5)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Make technical changes.
2. Provide that agreements to voluntarily agree to transfer property interest be by owners with at least 75% ownership in the property.
3. Provide that proposed law does not authorize acquisition of privately owned mineral interest and the reservation of mineral interest must be as provided in present law.
4. Prohibit the transfer of causes of action to the entity acquiring property interest without extinguishing the causes of action of the prior private landowner.