

Regular Session, 2012

HOUSE BILL NO. 864

BY REPRESENTATIVE PEARSON

PROPERTY/ABANDONED: Provides relative to the removal or demolition of encroachments on state water bottoms

1 AN ACT

2 To amend and reenact R.S. 41:1714, relative to encroachments on public land; to provide  
3 authority to certain local governing authorities for ordering removal or demolition  
4 of encroachments; to provide for notice; to provide procedures for ordering removal  
5 or demolition; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 41:1714 is hereby amended and reenacted to read as follows:

8 §1714. Sanctions for violations; exceptions

9 A. The attorney general or local governing authority of the parish where an  
10 encroachment may be located shall, by injunctive or other relief, prevent the  
11 unlawful creation of encroachments without permit, or which by construction or  
12 continuing existence, create a hazard to the public interests. Any encroachment  
13 constructed or maintained without permit or lease, or abandoned shall be a nuisance  
14 and an obstruction and embarrassment to the public use and interest.

15 B. The attorney general or local governing authority of the parish where the  
16 encroachment is located, by court action, may compel or effect the removal or  
17 demolition of the encroachment at the expense of the parties responsible for their  
18 creation without any compensation, and the parties responsible may be sentenced to  
19 pay all damages which have been occasioned by the creation or existence of the  
20 encroachment. The state may elect to keep the encroachment for the benefit of the

1 public, but only upon reimbursement to the persons responsible for the cost of  
 2 materials and labor required to construct the same. In no cases shall the state or local  
 3 governing authority be compelled to suffer the existence of unlawful encroachments  
 4 described herein. All remedies existing in law or equity in favor of landowners shall  
 5 likewise be available to the state or local governing authority for enforcement of this  
 6 Chapter.

7 C. In those cases where it is determined that an encroachment is constructed  
 8 or maintained without lease or permit by reason of unintentional mistake or error,  
 9 resulting in a failure to apply to the office, the persons responsible shall have thirty  
 10 days from written or published notice to complete application to the office before  
 11 appropriate action is instituted by the attorney general or local governing authority.

12 D. The local governing authority shall send written notice to the attorney  
 13 general of the filing of an action for the removal or demolition of an encroachment  
 14 pursuant to the provisions of this Section within thirty days of the filing of such an  
 15 action.

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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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Pearson

HB No. 864

**Abstract:** Provides local governing authorities with the authority to order the removal or demolition of encroachments on state water bottoms.

Present law requires the attorney general to, by injunctive or other relief, prevent the unlawful creation of encroachments without permit, or which by construction or continuing existence, create a hazard to the public interests, and provides that any encroachment constructed or maintained without permit or lease, or abandoned shall be a nuisance.

Proposed law extends the authority provided by present law to local governing authorities where an encroachment may be located.

Present law authorizes the attorney general, by court action, to compel or effect the removal or demolition of the encroachment at the expense of the parties responsible for their creation without any compensation, and the parties responsible may be sentenced to pay all damages which have been occasioned by the creation or existence of the encroachment.

Proposed law extends the authority provided by present law to local governing authorities where the encroachment is located.

Present law authorizes the state to elect to keep the encroachment for the benefit of the public, but only upon reimbursement to the persons responsible for the cost of materials and labor required to construct the same.

Proposed law retains present law.

Present law provides that if an encroachment is constructed or maintained without lease or permit by reason of unintentional mistake or error, resulting in a failure to apply to the office, the persons responsible shall have 30 days from written or published notice to complete application to the office before appropriate action is instituted by the attorney general.

Proposed law extends the 30-day notice requirements provided by present law to local governing authorities.

Proposed law requires the local governing authority to send written notice to the attorney general of the filing of an action for the removal or demolition of an encroachment within 30 days of the filing of such an action.

(Amends R.S. 41:1714)