

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1653

By: Representative Lea
By: Senator J. Woods

For An Act To Be Entitled

AN ACT CONCERNING THE OWNERSHIP, ADMINISTRATION, AND
REGULATION OF ISLANDS, SUBMERGED LANDS, AND PROPERTY
LOCATED ON THE ISLANDS OF SUBMERGED LANDS; AND FOR
OTHER PURPOSES.

Subtitle

CONCERNING THE OWNERSHIP, ADMINISTRATION,
AND REGULATION OF ISLANDS, SUBMERGED
LANDS, AND PROPERTY LOCATED ON THE
ISLANDS OF SUBMERGED LANDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 22-6-202 is amended to read as follows:

22-6-202. ~~Property of State~~ Title and administration of islands and submerged lands.

(a) ~~All~~ Except as provided in § 22-6-204, islands formed or ~~which that~~ may form in the navigable waters of this state are ~~declared to be~~ the property of the state ~~except as provided in § 22-6-204~~ and subject to sale and disposition in the manner and form provided in this subchapter.

(b) The Commissioner of State Lands ~~shall have full power and authority to~~ may lease, or grant, or sell islands or submerged lands, and ~~the Commissioner of State Lands shall~~ may promulgate rules and regulations ~~as may be necessary to effectively carry out the provisions of~~ implement this section, and, upon adoption, such rules and regulations shall have the full force and effect of law.



(c) The construction, alteration, or placement of objects below the ordinary high water mark in a navigable river, stream, or lake shall not be permitted without permission from the Commissioner of State Lands.

(d) The Commissioner of State Lands may:

(1) Enter into agreements and partnerships with other agencies to carry out the intent of this section;

(2) Require the removal of an existing structure that occupies the submerged lands of a navigable stream, river, or lake; or

(3) Require compensation to the Commissioner of State Lands by the owner for the continued use of submerged lands.

(e)(1) The Commissioner of State Lands, or at the request of the Commissioner of State Lands, the Attorney General, may institute an action in a court with proper venue and subject matter jurisdiction over submerged lands or the Pulaski County Circuit Court to remove a structure or debris resting on the submerged lands of the navigable waters of the state or to enjoin the construction or placement of a structure upon the submerged lands.

(2) If a court finds that a structure or debris is on the submerged lands of the state without permission from the Commissioner of State Lands, the court may order the owner of the structure or debris to:

(A) Remove the structure or debris; and

(B) Pay the expenses of removing the structure or debris.

(3) If the structure or debris has been removed by the state or a local government, the judge may order the owner to:

(A) Reimburse the state or local government for the costs of removal; and

(B) Pay the state or local government its court costs and reasonable attorney's fees.

SECTION 2. Arkansas Code Title 22, Chapter 6, Subchapter 2, is amended to add an additional section to read as follows:

22-6-205. Objects of antiquity on submerged lands property of state – Exceptions.

(a) As used in this section, "object of antiquity" includes without limitation property lost or abandoned for twenty-five (25) years or more.

(b) An object of antiquity found in the submerged lands of the state and not claimed by the federal government or protected under the Native

American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq., shall be the property of the state and be held in trust by the Commissioner of State Lands.

(c) A person removing an object of antiquity without permission of the Commissioner of State Lands is guilty of theft of property under § 5-36-103.

(d) The Commissioner of State Lands may:

(1) Work with state or federal agencies to study, protect, and remove an object of antiquity; and

(2) Transfer or entrust a state or federal agency or federally recognized Indian tribe to take possession of property removed from submerged lands owned by the state.

APPROVED: 04/01/2013

