

2017 Regular Session

SENATE BILL NO. 143

BY SENATOR CHABERT AND REPRESENTATIVE STOKES

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

PUBLIC LANDS. Provides relative to sales, leases, and subleases of immovable property under the jurisdiction of the Department of Culture, Recreation and Tourism. (gov sig)

AN ACT

To amend and reenact R.S. 36:204(B)(6) and R.S. 56:1687(6) and (9), and to enact R.S. 36:204(B)(9) and (10), relative to the powers and duties of the secretary of culture, recreation and tourism; to provide for the procedure for the sale, lease, and sublease of state parks land; to provide for concession leases; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:204(B)(6) is hereby amended and reenacted and R.S. 36:204(B)(9) and (10) are hereby enacted to read as follows:

§204. Powers and duties of secretary of culture, recreation and tourism

\* \* \*

B. The secretary shall have authority to:

\* \* \*

(6) ~~Except as otherwise specifically provided in R.S. 56:1687(6), sell~~ **Sell**, lease, or sublease state park lands ~~only after receiving approval for such sale, lease, or sublease by the legislature of the state of Louisiana and only after publishing an advertisement in the official journal of the parish or parishes in which such land is~~

\* \* \*

**(i) Such a lease shall be negotiated and let in accordance with fair and reasonable criteria established and applied relating to a balance of factors**

1 including but not limited to rent, highest return of revenue and benefits,  
2 financial stability of the lessee or sublessee, architectural design, development  
3 and management of operational plan, uniqueness of operation, and stimulating  
4 other economic activity and public benefits within the state.

5 (ii) A lease entered into by a private lessee for the performance of work  
6 on the leased premises or the erection, construction, or maintenance of  
7 improvements on the leased premises shall not constitute a contract for public  
8 work as defined in R.S. 38:2211(A).

9 (iii) The architectural plans for such improvements shall be approved by  
10 the secretary prior to construction on the leased or subleased property.

11 (iv) Such leases shall be subject to R.S. 39:11 and R.S. 39:366.11.

12 (10) Terminate the lease, sublease, concession agreement, contract, or  
13 other privilege of any person who files a federal or state trademark or service  
14 mark application for a trademark or service mark that incorporates or implies  
15 an association with a holding of the department or its historical, cultural, or  
16 recreational resources or who makes a legal claim or assertion to have a  
17 trademark or service mark. Any such person shall be disqualified from future  
18 concession agreements, leases, contracts, and privileges granted by the  
19 department. Any such person shall be responsible for the state's attorney fees,  
20 costs, and expenses associated with that termination, opposition, cancellation,  
21 and disqualification.

22 Section 2. R.S. 56:1687(6) and (9) are hereby amended and reenacted to read as  
23 follows:

24 §1687. Secretary, Department of Culture, Recreation and Tourism; powers

25 The secretary of the Department of Culture, Recreation and Tourism may:

26 \* \* \*

27 (6) Sell, lease, or sublease lands under the jurisdiction of the office of state  
28 parks when he believes it advantageous to the state to do so in the most orderly  
29 development and improvement of the office of state parks holdings but only after

\* \* \*

\* \* \*

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

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## DIGEST

SB 143 Engrossed

2017 Regular Session

Chabert

Present law requires, under most circumstances, that the sale, lease, or sublease of state park lands be approved by the legislature and that notice of such sale be properly advertised.

Proposed law removes the legislative approval requirement, but requires that such sale, lease, or sublease of state park lands comply with applicable provisions of the sale and lease laws of public lands of the state.

Present law provides requirements for the leasing of public lands, including application, advertisement, and bidding.

Proposed law authorizes the secretary of the Dept. of Culture, Recreation and Tourism (CRT) to grant leases, subleases, and concession leases and enter any related contract or agreement on any portion of the immovable property under the CRT's supervision, jurisdiction, or management except the Lower Pontalba Building to any of the following:

- (1) A public body. The application, advertisement, and bid requirements of present law related to the leases of public lands will not apply to a lease with a public body under the proposed law.
- (2) A private entity. The provisions of present law related to the leases of public lands will not apply to a mineral or timber lease with a private entity under the proposed law. If a private entity is obligated under the terms of a lease to undertake activities or to construct improvements on the leased immovable property that will support the public purposes of the department, the provisions of present law related to the leases of public lands will not apply to the lease, but such a lease is subject to the following conditions:
  - (a) Such lease shall be negotiated and let in accordance with fair and reasonable criteria established and applied relating to a balance of factors including but not limited to rent, highest return of revenue and benefits, financial stability of the lessee or sublessee, architectural design, development and management of operational plan, uniqueness of operation, and stimulating other economic activity and public benefits within the state.
  - (b) A lease entered into by a private lessee for the performance of work on the leased premises or the erection, construction, or maintenance of improvements on the leased premises will not constitute a contract for public works.
  - (c) The architectural plans for such improvements shall be approved by the secretary prior to construction on the leased or subleased property.
  - (d) Such leases shall be subject to the laws governing the administration of state lands and cooperative endeavor agreements.

Proposed law further authorizes the secretary to terminate the lease, sublease, concession agreement, contract, or other privilege of any person who files a federal or state trademark

or service mark application for a trademark or service mark that incorporates or implies an association with a holding of the department or its historical, cultural, or recreational resources or who makes a legal claim or assertion to have a trademark or service mark.

Proposed law disqualifies any such person from future concession agreements, leases, contracts, and privileges granted by CRT. Proposed law provides that any such person shall be responsible for the state's attorney fees, costs, and expenses associated with that termination, opposition, cancellation, and disqualification.

Present law authorizes the secretary to charge a fee for the leasing of concessions or other privileges in or on an office of state parks holding.

Proposed law retains present law, but further authorizes the secretary to collect rents and other payments for the leasing of concessions or granting of other privileges in or on an office of state parks holding.

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

(Amends R.S. 36:204(B)(6) and R.S. 56:1687(6) and (9); adds R.S. 36:204(B)(9) and (10))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Makes technical changes.
2. Adds provision that leases, subleases, concession leases, and any related contract or agreement will be referred to as a lease.
3. Exempts the Lower Pontalba Building from the secretary's authority to grant leases of immovable property under CRT's supervision.