

Texas Historical Statutes Project

1938 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1936



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VERNON'S TEXAS STATUTES

CENTENNIAL EDITION

1938 SUPPLEMENT

Covering
Laws of General Nature Enacted by the Legislature
at the Regular and Called Sessions From
January 1, 1936 to January 1, 1938

45th Legislature, 1st and 2nd Called Sessions
45th Legislature, Regular Session
44th Legislature, 3d Called Session

TABLES AND INDEX

KANSAS CITY, MO..
VERNON LAW BOOK COMPANY

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TEX. ST. SUPP. '38

1938 SUPPLEMENT

Vernon's Texas Statutes, 1936 Centennial Edition has proven so popular among the Bench and Bar of the state as a convenient and reliable means of finding the law that the publisher has been urged to bring that volume to date by means of a cumulative supplement containing the laws through 1937.

This 1938 Supplement to the Centennial Edition is, therefore, a direct supplement to that volume and contains the laws of a general and permanent nature through the Second Called Session of the 45th Legislature.

The arrangement of the laws conforms to the Revised Civil and Criminal Statutes of 1925 adopted by the Legislature and, of course, conforms to that of the Centennial Edition, which it supplements.

The arrangement of the laws is, therefore, identical with that appearing in Vernon's Annotated Texas Statutes. This means that the user of this volume and of the Centennial Edition, can go from any article herein to the same article in Vernon's Annotated Texas Statutes, where the complete construction of the law by State and Federal Courts, as well as complete historical data relative to the origin and development of the law, is readily available.

The same practical features which have served to popularize the Centennial Edition, such as complete Index, Tables, etc., are continued in this Supplement.

The publisher extends appreciative thanks to the office of the Secretary of State in the work of verifying the accuracy of the text.

CITE THIS BOOK BY ARTICLE
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¹ Died Sept. 11, 1937.² Appointed Chief Justice Sept. 27, 1937.³ Appointed Sept. 25, 1937.

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*

CONSTITUTION OF STATE OF TEXAS

AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 26a

Provided however, that no county shall be entitled to or have under any apportionment more than seven (7) Representatives unless the population of such county shall exceed seven hundred thousand (700,000) people as ascertained by the most recent United States Census, in which event such county shall be entitled to one additional Representative for each one hundred thousand (100,000) population in excess of seven hundred thousand (700,000) population as shown by the latest United States Census; nor shall any district be created which would permit any county to have more than seven (7) Representatives except under the conditions set forth above. (Sec. 26a, Art. 3, adopted election Nov. 3, 1936.)

Sec. 48a

In addition to the powers given to the Legislature, under Section 48 of Article 3, it shall have the right to levy taxes to provide a Retirement Fund for persons employed in public schools, colleges and universities, supported wholly or partly by the State; provided that the amount contributed by the State to such Retirement Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum of the compensation paid to each such person by the State, and/or school districts, and shall in no one year exceed the sum of One Hundred Eighty (\$180.00) Dollars for any such person; provided no person shall be eligible for a pension under this Amendment who has not taught twenty years in the State of Texas, but shall be entitled to a refund of the moneys paid into the fund.

All funds provided from the compensation of said persons, or by the State of Texas, for such Retirement Fund, as are received by the Treasury of the State of Texas, shall be invested in bonds of the United States, the State of Texas, or counties or cities of this State, or in bonds issued by any agency of the United States Government, the payment of the principal of and interest on which is guaranteed by the United States; provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amounts that may become due each year under such retirement plan as may be provided by law; and provided that the recipients of such retirement fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless such retirement fund, contributed by the State, is released to the State of Tex-

as as a condition to receiving such other pension aid. (Sec. 48a, Art. 3, adopted election Nov. 3, 1936.)

Sec. 51c.

The Legislature shall have the power by General Laws to provide, under such limitations and regulations and restrictions as may by the Legislature be deemed expedient, for assistance to the needy blind over the age of twenty-one (21) years, and for the payment of same not to exceed Fifteen Dollars (\$15) per month per person; such assistance or aid to be granted only to actual bona fide citizens of Texas; provided that no habitual criminal and no habitual drunkard and no inmate of any State supported institution, while such inmate, shall be eligible for such assistance to the needy blind over the age of twenty-one (21) years; provided, further, that the requirements for the length of time of actual residence in Texas shall never be less than five (5) years during the nine (9) years immediately preceding the application for assistance to the needy blind over the age of twenty-one (21) years; and continuously for one year immediately preceding such application.

The Legislature shall have the authority to accept from the Government of the United States such financial aid for assistance to the needy blind as that Government may offer not inconsistent with the restrictions hereinabove provided. (Sec. 51-c, Art. III, adopted election Aug. 23, 1937.)

Sec. 51d.

Subject to the limitations and restrictions herein contained, and such other limitations, restrictions, and regulations as may be provided by law, the Legislature shall have the power to provide for assistance to destitute children under the age of fourteen (14) years; such assistance shall not exceed Eight Dollars (\$8) per month for one child nor more than Twelve Dollars (\$12) per month for such children of any one family; provided that the amount to be expended for such assistance out of state funds shall never exceed the sum of One Million, Five Hundred Thousand Dollars (\$1,500,000) per year. The Legislature may impose residential restrictions and such other restrictions, limitations, and regulations as to it may seem expedient.

The Legislature shall have the authority to accept from the Government of the United States such financial assistance to destitute children as that Government may offer not inconsistent with the restrictions herein above provided. (Sec. 51-d, Art. III, adopted election Aug. 23, 1937.)

Sec. 52d

Upon the vote of a majority of the resident qualified electors owning rendered taxable property therein so authorizing, a county or road district may collect an annual tax for a period not exceeding five (5) years to create a fund for constructing lasting and permanent roads and bridges or both. No contract involving the expenditure of any of such fund shall be valid unless, when it is made, money shall be on hand in such fund.

At such election, the Commissioners' Court shall submit for adoption a road plan and designate the amount of special tax to be levied; the number of years said tax is to be levied; the location, description, and character of the roads and bridges; and the estimated cost thereof. The funds raised by such taxes shall not be used for purposes other than those specified in the plan submitted to the voters. Elections may be held from time to time to extend or discontinue said plan or to increase or diminish said tax. The Legislature shall enact laws prescribing the procedure hereunder.

The provisions of this section shall apply only to Harris County and road districts therein. (Sec. 52d, Art. III, adopted election Aug. 23, 1937.)

Sec. 59

The Legislature shall have power to pass such laws as may be necessary to provide for Workmen's Compensation Insurance for such State employees, as in its judgment is necessary or required; and to provide for the payment of all costs, charges, and premiums on such policies of insurance; providing the State shall never be required to purchase insurance for any employee. (Sec. 59, Art. 3, adopted election Nov. 3, 1936.)

ARTICLE IV

EXECUTIVE DEPARTMENT

Sec. 5

The Governor shall, at stated times, receive as compensation for his services an annual salary of Twelve Thousand (\$12,000.00) Dollars and no more, and shall have the use and occupation of the Governor's Mansion, fixtures and furniture; provided that the amendment shall not become effective until the third Tuesday in January, 1937. (Sec. 5, Art. 4, adopted election Nov. 3, 1936.)

Sec. 11

There is hereby created a Board of Pardons and Paroles, to be composed of three members, who shall have been resident citizens of the State of Texas for a period of not less than two years immediately preceding such appointment, each of whom shall hold office for a term of six years; provided that of the members of the first board appointed, one shall serve for two years, one for four years and one for six years from the first day of February, 1937, and they shall cast lots for their respective terms. One member of said Board shall be appointed by the Governor, one member by the Chief Justice of the Supreme Court of the State of Texas, and one member by the presiding Justice of the Court of Criminal Appeals; the appointments of all members of said Board shall be made with the advice and consent of two-thirds of the Senate present. Each vacancy shall be filled by the respective appointing power that theretofore made the appointment to such position and the appointive powers shall have the authority to make recess appointments until the convening of the Senate.

In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons; and under such rules as the Legislature may prescribe, and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed thirty (30) days; and he shall have the power to revoke paroles and conditional pardons. With the advice and consent of the Legislature, he may grant reprieves, commutations of punishment and pardons in cases of treason.

The Legislature shall have power to regulate procedure before the Board of Pardons and Paroles and shall require it to keep record of its

actions and the reasons therefor, and shall have authority to enact parole laws. (Sec. 11, Art. 4, adopted election Nov. 3, 1936.)

Sec. 21

There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall continue in office during the term of service of the Governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either House thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary of Six Thousand (\$6,000.00) Dollars, and no more. (Sec. 21, Art. 4, adopted election Nov. 3, 1936.)

Sec. 22

The Attorney General shall hold office for two years and until his successor is duly qualified. He shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary of Ten Thousand (\$10,000.00) Dollars, and no more. (Sec. 22, Art. 4, adopted election Nov. 3, 1936.)

Sec. 23

The Comptroller of Public Accounts, the Treasurer and the Commissioner of the General Land Office shall each hold office for the term of two years and until his successor is qualified; receive an annual salary of Six Thousand (\$6,000.00) Dollars, and no more; reside at the Capitol of the State during his continuance in office, and perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this Section, or in his office, shall be paid, when received, into the State Treasury. (Sec. 23, Art. 4, adopted election Nov. 3, 1936.)

ARTICLE V

JUDICIAL DEPARTMENT

Sec. 3

The second sentence of the second paragraph of this section, reading "The Supreme Court shall sit for the transaction of business from the first Monday of October in each year until the last Satur-

day in June of the next year, inclusive at the Capitol of the State" was repealed by amendment adopted at November election 1930. See section 3a of this article.

ARTICLE VIII

TAXATION AND REVENUE

Sec. 20.

No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value nor shall any Board of Equalization of any governmental or political subdivision or taxing district within this State fix the value of any property for tax purposes at more than its fair cash market value; provided that in order to encourage the prompt payment of taxes, the Legislature shall have the power to provide that the taxpayer shall be allowed by the State and all governmental and political subdivisions and taxing districts of the State a three per cent (3%) discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; and the taxpayer shall be allowed a two per cent (2%) discount on said taxes if paid sixty (60) days before said taxes would become delinquent; and the taxpayer shall be allowed a one per cent (1%) discount if said taxes are paid thirty (30) days before they would otherwise become delinquent. This amendment shall be effective January 1, 1939. The Legislature shall pass necessary laws for the proper administration of this Section. (Sec. 20, Art. 8, adopted election Aug. 23, 1937.)

ARTICLE XVI

GENERAL PROVISIONS

Sec. 16

The Legislature shall by general laws, authorize the incorporation of corporate bodies with banking and discounting privileges, and shall provide for a system of State supervision, regulation and control of such bodies which will adequately protect and secure the depositors and creditors thereof.

No such corporate body shall be chartered until all of the authorized capital stock has been subscribed and paid for in full in cash. Such body corporate shall not be authorized to engage in business at more than one place which shall be designated in its charter.

No foreign corporation, other than the national banks of the United States, shall be permitted to exercise banking or discounting privileges in this State. (Sec. 16, Art. 16, adopted election Aug. 23, 1937.)

PROPOSED AMENDMENTS

Enacted by the 45th Legislature at the Regular Session of 1937

For submission to the people in November 1938

Section 1. That Article XVI, Section 1, of the Constitution of the State of Texas be amended to hereafter read as follows:

Section 1. Official Oath.

Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God."

Approved April 10, 1937.

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VERNON'S REVISED CIVIL STATUTES OF THE STATE OF TEXAS

TITLE 3—ADOPTION

Art. 46a. Petition for adoption, hearing and rights of adopted child

Consent of parents, exceptions

Sec. 6. Except as otherwise amended in this Section, no adoption shall be permitted except with the written consent of the living parents of a child; provided, however, that if a living parent or parents shall voluntarily abandon and desert a child sought to be adopted, for a period of two (2) years, and shall have left such child to the care, custody, control and management of other persons, and such parent or parents so abandoning and deserting such child shall not have contributed to the support of such child during such period of two (2) years, then in such event it shall not be necessary to obtain the written consent of the living parent or parents in such default, and in such cases adoption shall be permitted on the written consent of the Judge of the Juvenile Court of the county of such child's residence, or if there be no Juvenile Court, then on the written consent of the Judge of the County Court of the county of such child's residence.

In the case of a child fourteen (14) years of age or over, the consent of such child also shall be required and must be given in writing in the presence of the Court. Consent shall not be required of parents whose parental rights have been terminated by order of the Juvenile Court or other Court of competent jurisdiction; provided, however, that in such cases adoption shall be permitted only on consent of the superintendent of the home or school, or of the individual to whom the care, custody, or guardianship of such child has been transferred by a Juvenile Court or other Court of competent jurisdiction. In case of a child not born in lawful wedlock the consent of the father shall not be necessary. [As amended, Acts 1937, 45th Leg., H.B. # 1016, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

declared an emergency and provided that the act should take effect from and after its passage.

Section 3 of the amendatory act of 1937

Art. 46b. Validation of adoptions

That all adoption papers which were signed by an adopting parent or parents, or natural parent or parents of a child, prior to January 1, A. D. 1919, and under the terms of which any child was attempted to be adopted, and all attempts made in good faith to effect an adoption of any child

subsequent to January 1, A. D. 1919, and which failed of valid consummation through irregularities in the compliance with the then existing laws of this State, be and the same are hereby validated and made of binding force and effect, although said adoption papers were not properly signed and executed or authenticated or acknowledged as required for deeds, and were not, prior to the death of the adopting parent or parents, or prior to the death or disappearance of the natural parent or parents, filed for record with the County Clerk of the adopting parent's or parents' residence. [As amended, Acts 1937, 45th Leg., H.B. # 1016, § 2.]

Effective 90 days after May 22, 1937, date of adjournment.

TITLE 4—AGRICULTURE AND HORTICULTURE

CHAPTER 1.—COMMISSIONER OF AGRICULTURE

Art.

<p>51—1. Jacks and stallions, leasing of state-owned; appointment of caretaker; rules and regulations;</p>	<p>title to remain in state; allocation to Texas Prison System [New].</p>
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Art. 51—1. Jacks and stallions, leasing of state-owned; appointment of caretaker; rules and regulations; title to remain in state; allocation to Texas Prison System

Section 1. From and after the date of September 1, 1937, the Commissioner of Agriculture of the State of Texas is hereby directed and authorized to distribute throughout the State of Texas, on a lease basis as hereinafter provided, the jacks and stallions purchased by the State of Texas under the terms and provisions of Acts of the Regular Session, Forty-third Legislature, Chapter 163, Page 433,¹ as amended by Acts of the Forty-third Legislature, First Called Session, Chapter 10, Page 32.² And said Commissioner of Agriculture is further directed and authorized to name some suitable person, experienced in the handling of jacks and stallions, as caretaker of such jack or stallion. The Commissioner of Agriculture shall adopt and carry out reasonable rules and regulations with respect to the leasing and distribution, care, use and maintenance of such animals. Provided further that the title of all such jacks and stallions hereinbefore mentioned shall be and remain in the State of Texas. Provided further that in the event the Commissioner of Agriculture is unable to place any of such animals as herein provided due in any manner to defects or unfitness for breeding purposes, then the Commissioner of Agriculture is hereby authorized and directed to turn such animals over to the State Board of Control, who shall dispose of same to the best interest of the State.

Before any of the jacks or stallions are leased and distributed as herein provided, the Commissioner of Agriculture shall allocate and tender to the Texas Prison System two jacks and one stallion and after said jacks and stallion have been accepted by the Texas Prison Board, the Commissioner of Agriculture shall thereafter exercise no control or management over such animals. Such animals shall thereafter remain and be the property of the Texas Prison System for its uses and purposes, and said jacks and stallion are to be selected by the Commissioner of Agriculture and General Manager of the Texas Prison System from those jacks and stallions now owned by the State of Texas under the provisions of Chapter 10, Acts of the First Called Session, Forty-third Legislature. And all expenses incurred by the Commissioner of Agriculture in delivering said jacks and stallion to the Texas Prison System shall be borne by said system.

Annual rental charge; bond; contracts

Sec. 2. From and after the effective date of this Act the Commissioner of Agriculture shall distribute the jacks and stallions aforesaid throughout the State of Texas where there is most need shown to competent and capable caretakers who shall agree and pay to the State of Texas the sum of Thirty Dollars (\$30) in advance as an annual rental for the use of such jack or stallion, as the case may be, and who shall first enter into a written contract with the Commissioner of Agriculture all such condi-

tions and terms as may be determined by the Commissioner. In addition thereto each keeper shall be required to enter into a bond with two or more good and sufficient sureties, payable to the State of Texas, upon the approval of the Commissioner of Agriculture, conditioned that such caretaker shall in good faith, feed, water, care for and properly handle such animals. Such bond to be in the sum of not less than the market value of said animal or animals as determined by the Commissioner of Agriculture.

The Commissioner of Agriculture is hereby directed to contract with such keepers or caretakers to terminate on July 1 of each year such contracts to be terminable before that time when in the opinion of the Commissioner of Agriculture, or his agents, such animals are not being properly cared for as provided in the terms of such contracts and no lease shall extend for a period to exceed one year.

The contract hereinabove provided for shall in addition to the provisions herein set forth include one which will permit the use of such jack or stallion by said caretaker for the purposes to which he may be assigned in said contract and in no event shall the keeper or caretaker make a service charge of more than Ten Dollars (\$10) for each foal and such caretaker or keeper shall personally be liable for all refunds in guaranteeing a foal and in no event shall the State of Texas be liable directly or indirectly therefor. And it is expressly provided that the Thirty Dollars (\$30) paid as herein provided shall be all the demand or claim that the State of Texas shall have against such keeper or caretaker for rendering the services herein provided and the sum or sums herein provided as a charge for breeding fees shall be the only compensation said keeper or caretaker may claim of or from the State of Texas therefor.

Special Jack and Stallion Fund; disposition of

Sec. 3. The money derived from the leasing of the animals hereinabove mentioned shall be deposited by the Commissioner of Agriculture in the State Treasury where it shall be set up as a "Special Jack and Stallion Fund" to be used by the Commissioner to pay the salaries of two (2) competent supervisors at not to exceed Eighteen Hundred Dollars (\$1800) per year each for salaries and who shall receive the actual and necessary traveling expenses while away from Austin in the performance of their duties, which expenses shall not exceed amounts allowed other state employees under the terms and provisions of Senate Bill 138, Acts of the Forty-fifth Legislature, Regular Session, 1937, and in no event shall the salaries and expenses herein authorized exceed the amount collected annually from the lease or hire of animals as herein provided.

Funds transferred; use of funds

Sec. 4. All moneys now on hand and accruing to the Jack and Stallion Account under H. B. 779,³ Acts of the Forty-fourth Legislature, Regular Session, and amended by H. B. 8, Chapter 495,² Forty-fourth Legislature, Third Called Session, are hereby transferred to the Special Jack and Stallion Fund to be used by the Commissioner of Agriculture for making refunds on breedings heretofore reported in conformity with refunding provisions of H. B. 779, Acts of the Regular Session of the Forty-fourth Legislature, and for the payment of all other expenses incurred in the administration of this Act, subject to the biennial appropriation for the year ending August 31, 1939. The State Comptroller and the State Treasurer are hereby authorized and directed to make such transfers.

After transferring from said Special Racing Fund the said twenty-five per cent (25%) going to the State Available School Fund and after transferring from said Special Racing Fund all moneys on hand and ac-

cruing to the Special Jack and Stallion Fund, the balance then remaining in said Special Racing Fund until it becomes exhausted, shall be used for the payment of the appropriations by the Legislature for the support and maintenance of the State Department of Agriculture as said appropriations for the Department shall be fixed and allowed by the Legislature of the State of Texas from time to time. It is the intent of the Legislature hereby that the above distribution shall immediately be made and the money so transferred shall become available now and for any and all appropriations made by the Regular Session of the Forty-fifth Legislature for the support and maintenance of the State Department of Agriculture and that the General Revenue Fund shall not be drawn on until all moneys in the Special Racing Fund shall become exhausted, and all unexpended balances remaining on hand, at the end of the current biennium ending August 31, 1937, shall be carried over in the succeeding biennium to the use and benefit of the said State Department of Agriculture, as provided by law; providing however, that no refunds of breeding fees shall extend beyond January 1, 1938. [Acts 1937, 45th Leg., 1st C.S., H.B. # 12.]

¹ Probably should read "Chapter 166, page 433."

² Penal Code, art. 655a.

³ Penal Code, arts. 655a, subsec. 7, 655b. Effective 90 days after June 25, 1937, date of adjournment.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing and giving to the Commissioner of Agriculture certain authority relating to State-owned jacks and stallions and the lease thereof; providing for a maximum breeding fee; providing a lease fee of Thirty Dollars (\$30) and the disposition thereof; providing for the care and maintenance of such jacks and stallions; providing for title to such jacks and stallions to be in the State of Texas; providing for a contract between the Commissioner of Agriculture and the care-

takers and keepers; providing a bond for the protection of such animals; providing for the appointment of supervisors of jacks and stallions by the Commissioner of Agriculture and the payment of said supervisors' salaries and all expenses incident to the supervision of jacks and stallions with certain limitations; providing for the refunding of certain breeding fees incident to the breeding fees of 1936-1937 with limitations; providing for disposal of unfit animals by the Board of Control and for the transfer of present funds by the Comptroller and Treasurer; providing the carrying over of unexpended balances to the next biennium and the expenditures thereof, subject to the biennial appropriations therefor; providing for the support and maintenance of the Department of Agriculture out of certain funds; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. # 12.]

CHAPTER SIX.—FRUITS AND VEGETABLES

Art.

118b. Citrus fruit growers act; definitions
[New].

Art. 118b. Citrus fruit growers act; definitions

Section 1. As used in this Act:

(a) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(b) "Citrus fruit" means and includes all citrus fruits grown in the State of Texas and bought or sold or handled in any way in perishable or nonperishable form.

(c) "Person" shall mean and include any individual, partnership, group of persons or corporation or business unit handling citrus fruit in the State of Texas.

(d) "Handle" means buying or offering to buy, selling, or offering to sell or shipping for the purpose of selling or processing in any form, whether as owner, agent, or otherwise, any citrus fruit within the State of Texas.

(e) "Dealer" means any person who handles fruit as the word "handle" is defined in (d) of this Section.

(f) "Buying Agent" shall mean any person authorized by any licensed dealer to act for him in the handling of citrus fruit as defined in (d) of this Section.

(g) "Transporting Agent" shall mean any person authorized by any dealer to act for said dealer in the transporting of citrus fruit.

(h) "Warehouseman" means and includes any person who receives and stores citrus fruit for compensation.

(i) "Packer" means and includes any person who prepares and/or packs citrus fruit for barter, sale, exchange, or shipment.

License and bond of dealer

Sec. 2. No person shall engage in the business of a dealer in citrus fruits as that term is herein defined unless such person shall first have procured a license and filed a bond in accordance with the provisions of this Act.¹

¹ This article and Pen.Code, art. 1700a-3.

Application for license

Sec. 3. Any person desiring to engage in the business of a dealer in citrus fruits shall first file in the office of the Commissioner of Agriculture, an application for a license duly executed under oath upon a form provided therefor by the Commissioner, which application shall set forth the following information:

(a) The name and business address of the applicant outside of the State of Texas, if any.

(b) State whether or not applicant desires a license issued to him as a maximum or minimum dealer, that is, handling in excess of one thousand (1,000) standard boxes or the equivalent thereof, or in quantities of one thousand (1,000) or less standard boxes or the equivalent thereof of citrus fruit during such twelve-month period covered by said license. Applicant shall state whether he desires to act as a cash buyer paying for purchase of citrus fruit in current U. S. money at time of such purchase and delivery or otherwise.

(c) The applicant's principal business address in the "State of Texas," if any.

(d) Whether applicant is an individual, cooperative exchange, partnership, cooperative association, a group of persons, or a corporation, and if a corporation, where organized and if incorporated in any State or country other than Texas, the address of its office in Texas, together with the name and address of a duly authorized person in Texas upon whom service or legal process can be made in suits against said applicant brought in Texas; if a partnership, the names and addresses of all partners or individuals interested therein.

(e) How long the applicant has been engaged as a dealer in citrus fruit in Texas.

(f) Such additional information as the Commissioner of Agriculture may determine and prescribe.

License fee accompanying application

Sec. 4. The application of any person for license shall be accompanied by a payment of the license fee as herein provided and upon receipt of such application and payment of fee, it shall be the duty of the Commissioner to examine same and within his discretion grant the ap-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

plicant the license applied for, and in the classification specified in the application, upon applicant filing a good and sufficient surety bond payable to the Governor of the State of Texas and his successors in office, in the principal sum of Five Thousand Dollars (\$5,000) where the application for license specifies that the applicant desires to act as a dealer of citrus fruit in quantities in excess of one thousand (1,000) standard boxes or the equivalent thereof during the period covered by the license, and in the principal sum of Two Hundred Dollars (\$200) where the applicant specifies that he desires to act as a dealer of citrus fruit in quantities of one thousand (1,000) or less standard boxes or the equivalent thereof, during said period covered by the license, such bond to be in such form as the Commissioner may prescribe and shall be conditioned upon compliance with the provisions of this Act and upon the faithful performance and compliance with the conditions and terms of all contracts made by said dealers in connection with the handling of citrus fruits under this Act. Cause of action may be maintained upon said bond by any person with whom applicant deals in purchasing, handling, selling and accounting for sales of citrus fruit as provided in this Act. The aggregate accumulated liability under any such bond shall not exceed the amount named therein and each such bond shall continue in force and effect until notice of the termination thereof is given by registered mail to the Commissioner, which fact shall be set forth in the face of said bond but such notice shall not affect the liability which may have accrued thereon prior to termination.

The license fee which each applicant shall pay upon the filing of his application for license, shall be:

(a) The sum of Twenty-five Dollars (\$25) where application is for handling citrus fruit in quantities in excess of one thousand (1,000) standard boxes or the equivalent thereof.

(b) The sum of Five Dollars (\$5) where application is for handling citrus fruit in quantities of one thousand (1,000) or less standard boxes or the equivalent thereof during the twelve-month period to be covered by said license.

Any license issued under the provisions hereof shall remain in force and effect for a period of twelve months from the date thereof unless sooner cancelled and terminated under the provisions of this Act. Upon the filing of any application for license the Commissioner of Agriculture shall duly consider same and after such investigation and consideration grant or refuse the license as in his judgment the facts warrant; if he shall determine that the license applied for shall not be granted, he shall accordingly disapprove the application and notify the applicant of his decision and return to applicant the balance of any payment accompanying said application after deducting the sum of Five Dollars (\$5) to be retained by the Commissioner to defray costs and expenses incident to the filing and examination of said application. Upon the approval of any application and the approval and acceptance of bond filed by such applicant where required, the license applied for shall forthwith issue and the applicant shall thereupon be entitled to do business pursuant to said license and in accordance with the terms of this Act for a period of twelve months from the date thereof.

Hearing on objection to application

Sec. 5. If any person shall file with the Commissioner a written objection, duly verified, to the granting of a license to any applicant under the provisions of this Act, the Commissioner may, in his discretion, have a hearing thereon before taking final action on the application and for

this purpose shall give the applicant and the complainant written notice of the time and place of such hearing.

Hearing on charge of violation of act

Sec. 6. After license is granted to any applicant, if any written, verified complaint is filed with the Commissioner, charging any dealer with the violation of any of the terms of this Act, or with a failure to comply with any of his obligations and contracts created and incurred under the provisions hereof, the Commissioner shall, forthwith, fix a date for a hearing thereon and notify such dealer against whom complaint is made, as well as the complainant, of the date and place of such hearing, same to be most reasonably convenient for the interested parties, and the date of such hearing shall not be fixed more than ten (10) days from the receipt by the Commissioner of such complaint; provided, upon the date set, the Commissioner shall proceed with said hearing and same may be recessed from day to day if in the discretion of the Commissioner the ends of justice demand, and upon conclusion of said hearing, the Commissioner shall make his decision and may, if in his judgment the facts show that said dealer has failed to comply with this Act or has refused to carry out his contracts or obligations created pursuant to this Act, cancel and revoke the license of such dealer against whom said complaint was made. Nothing herein provided shall prevent the Commissioner from acting and cancelling any license upon his own initiative without the necessity of the filing of a written complaint.

Cancellation of license; notice

Sec. 7. Upon the cancellation of any license granted hereunder, the Commissioner shall immediately notify such dealer or licensee of such cancellation and it shall be unlawful for any licensee or dealer whose license has been cancelled as herein provided, to engage in business as a dealer or otherwise, under the terms of this Act, after such cancellation.

Appeal from cancellation

Sec. 8. Any applicant for license whose application is rejected or any dealer who has been licensed hereunder and whose license is subsequently cancelled, may have an appeal from the Commissioner's ruling to any Court of competent jurisdiction.

Payment of purchase price on demand

Sec. 9. Any dealer who shall cause a producer or seller or owner, or agent of producer, seller or owner to part with the control or possession of all or any part of his citrus fruit, and who agrees by his contract of purchase to pay the purchase price upon demand following delivery, shall immediately make payment therefor to such owner or seller. Demand for the purchase price may be made upon dealer in writing, and the mailing of a registered letter making such demand, addressed to said dealer at his business address, shall be prima facie evidence that demand was made upon the mailing of said letter.

Written contract for handling

Sec. 10. When a dealer causes a producer, seller or owner, or agent of producer, seller or owner, to part with the control or possession of all or any portion of his citrus fruit by means of any agreement under which the producer, seller or owner or agent of producer, seller or owner, has waived the right to demand the purchase price, as and when he parts with said control or possession of citrus fruit, such contract for the

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

handling, purchase or sale of citrus fruit by the dealer and the producer, seller or owner, or agent of producer, seller or owner, shall be evidenced in writing in duplicate and shall set out in full the details of such transactions. In the event the contract does not specify the time and manner of settlement, then the dealer shall settle therefor within thirty (30) days from the delivery of the citrus fruit into the dealer's control, and the dealer shall then directly account to and pay over to the said producer the full amount called for by the contract.

Buying by weight

Sec. 11. Any dealer who buys citrus fruit by weight and who does not have such fruit weighed over public scales by public weigher as provided in Title 4, Chapter 180¹ of the Acts of the Forty-third Regular Session of the Legislature of the State of Texas, as now written or as the same may be amended, shall be deemed guilty of a violation of this Act.²

¹ Article 118a and Pen.Code, art. 719B.

² This article and Pen.Code, art. 1700a—3.

Duration of license; license unassignable; identification cards

Sec. 12. Any license issued hereunder will authorize the licensee, and none other, to engage in the business as a dealer for one year from date of issuance, at which time said license shall expire and become null and void. Any license issued to applicant under the provisions of this Act, which expires by its own terms, may be renewed upon payment to the Commissioner of Agriculture of the proper license fee as provided for the original issuance thereof. Said license and the identification cards hereinafter provided shall not be assignable and any attempt to assign same shall void such license or identification card. Upon application to the Commissioner by any licensed dealer, a reasonable number of "buying agent" and "transporting agent" identification cards may be issued and accredited to such dealer, under such rules and regulations as said Commissioner may prescribe, and said Commissioner is hereby empowered to charge a fee not to exceed One Dollar (\$1) for each card so issued:

(a) Such cards shall bear the name of the licensee, dealer, and the number of his license, also the name of the dealer's agent, and shall state thereon that said licensed dealer, as the principal, has authorized the agent named on the card, the holder thereof, to act for and on behalf of said principal, either as "buying agent," or as "transporting agent" as above defined. "Buying agent" identification cards shall be of a different color from "transporting agent" cards. Such identification cards shall be at all times carried upon the persons of such agents who shall, upon demand, display such cards to the Commissioner or his agents or representatives, or to any person with whom said agent may be transacting business under this Act.

(b) If and when the holder of any identification card ceases to be the agent of the dealer by whom he was employed, it shall be the duty of said dealer to return immediately such agent's card to the Commissioner for cancellation, and failure to do so shall constitute a violation of this Act.

(c) Any person who shall handle citrus fruits purporting to act as agent for any dealer or shipper when such person so purporting to act as agent shall not, in fact, be the agent of such shipper or dealer, or any person who handles citrus fruit for himself or any other person other than the dealer who authorized the issuance of his card, while the relation of agency continues, or any person who purports to act as a

buying agent or transporting agent of any dealer without first having an identification card as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided, and each day such person operates in violation of this Section, shall constitute a separate offense.

Regulations as to purchase

Sec. 13. It shall be unlawful for any dealer, packer, processor or warehouseman to purchase or receive or handle any citrus fruit without requiring the person from whom such citrus fruit is purchased or received, to furnish a statement in writing of (a) the owner of said citrus fruit, (b) the grower of said citrus fruit, together with the approximate location of the orchard where said fruit was grown, (c) the date said fruit was gathered and by whose authority same was gathered, and such records shall be kept in a permanent book or folder and shall be available to inspection by any interested party.

Commissioner's power and authority in enforcing act

Sec. 14. For the purpose of enforcing the provisions of this Act, the Commissioner is hereby vested with full power and authority and it shall be his duty, either upon his own initiative or upon the receipt of a properly verified complaint, to investigate all alleged violations of this Act and for the purpose of making such investigation, he shall have, at all times, free and unimpeded access to all books, records, buildings, yards, warehouses, storage, and transportation and other facilities or places in which any citrus fruit is kept, stored, handled, processed or transported, and in furtherance of such investigation either the Commissioner in person or through his authorized representatives, may examine any portion of the ledger, books, accounts, memorandum, documents, scales, measures, and other matters, objects or persons pertinent to such alleged violation under investigation. The Commissioner shall take such action and hold such public hearings as in his judgment are shown to be necessary after such investigations, and shall take the proper action with reference to the cancellation or suspension of the license of any dealer hereunder shown to have been guilty of a violation of the terms of this Act. Such hearings shall be held in the nearest city or town in the county where violations are alleged to have occurred. Any order made by the Commissioner with reference to the revocation or cancellation of any license granted under the provisions of this Act, shall be subject to review by a Court of competent jurisdiction.

Records on handling fruit on consignment or commission

Sec. 15. Where any citrus fruit is handled by any dealer upon a consignment or commission basis, unless otherwise agreed in written contract between the dealer and owner, then the dealer shall, upon demand of the seller, or owner, his agent or representative, furnish said owner or seller, his agent or representative, a complete and accurate record showing, among other things, date of sale, to whom sold, the grade and selling price of said fruit, together with itemized statement showing what expenses of any kind or character incurred in the sale or handling of said citrus fruit including the commission, if any, to the dealer, and the failure or refusal of such dealer to furnish such information within ten (10) days after such demand by owner or seller, his agent or representative, shall constitute a violation of this Act.

Dealer's contract to include commissions

Sec. 16. If a dealer handles citrus fruit by guaranteeing a producer or an owner a minimum price, but at the same time handles the citrus fruit for the account of the producer or owner, said dealer shall include in his contract with the producer or owner, the maximum amount which he shall charge for commissions and/or service, or both, in connection with said citrus fruit so handled.

Settlements on grades and quality referred to in contract

Sec. 17. All citrus fruit except that obtained and handled by dealers, solely on a consignment basis without any price guarantee, shall be settled for by every dealer on the basis of the grade and quality which is referred to in the contract pursuant to which the dealer obtained possession or control of such citrus fruit, unless such citrus fruit has been inspected by a State or Federal inspector in the State of Texas and found to be of a different grade or quality than that referred to in said contract, in which event same shall be settled for on the basis of the grade and quality determined by such inspector. But nothing herein shall prevent the parties in lieu of such an inspection, from agreeing in writing only that the grade or quality of any of such citrus fruit was different from that referred to in the contract. Failure of the dealer to settle with a producer or seller on grade and quality in the manner herein provided, shall constitute a violation of this Act and be punishable as hereinafter provided, and in addition shall be cause for revocation of license.

Investigations by commissioner

Sec. 18. The Commissioner of Agriculture shall have power to subpoena witnesses, administer oaths, inquire into matters of fact in examining such parts of the books and records pertaining to the matters under investigation and punish for contempt in the same manner and to the same extent as the District Court may do.

License fees to constitute dealers fund

Sec. 19. All license fees collected under the provisions of this Act shall be deposited with the Treasurer of the State of Texas, to be held by him in a special fund to be known as "Citrus Dealers Act Fund" and such fund shall be used on the order of the Commissioner when necessary to defray the expenses of the administration of this Act and same is hereby appropriated for said purpose.

Venue of suits

Sec. 20. The venue of any and all criminal acts and civil suits instituted under the provisions of this Act shall be in the county where the violation occurred or where the citrus fruits were received by the dealer, packer or warehouseman.

Penal provision

Section 21 of this Act being a penal provision is published as Penal Code, art. 1700a-3.

Construction as to application of act

Sec. 22. The provisions of this Act shall not be construed as applying to a retailer who is engaged only in the business of retailing citrus fruit, nor to any person when such person handles or ships less than six (6) standard boxes of citrus fruit in any one separate shipment, nor

to such persons shipping citrus fruit by express when such shipments or noncommercial.

License of dealers selling own crop

Sec. 23. Any citrus grower who handles and markets only citrus fruit grown by him, shall file an application for a license as a dealer in citrus fruit and upon so filing said application with the Commissioner of Agriculture of the State of Texas in the form prescribed, he shall be entitled to a license as a minimum dealer of citrus fruit; i. e., one handling not in excess of one thousand (1000) standard boxes, or the equivalent thereof, per twelve-month period and said license shall be issued to him without the payment of any fee or the posting of any bond and he shall thereupon be entitled to handle, market, sell, and dispose of his citrus fruit in accordance therewith subject to the pertinent provisions of this Act.

Fruit to show origin

Sec. 24. All citrus fruit grown in Texas and marketed in accordance with this Act shall, when in its original perishable form, be so labeled as to show its Texas origin.

Exemption from bond; penalty

Sec. 25. Any person who purchases citrus fruit only from dealers duly qualified as such under this Act, and pays therefor prior to or at the time of delivery or taking possession of such citrus fruit so purchased in current money of the United States, shall be exempt from giving the bond provided for in this Act and such person shall indicate on his application for license that he desires to operate as a cash buyer, buying only from dealers duly qualified as such under this Act, in accordance with the provisions of this Section and thereupon such person shall be entitled to a license as a cash citrus dealer, purchasing only from dealers duly qualified under this Act, upon the payment by such applicant of the license fee as required under this Act. Such dealer shall be subject to all the pertinent provisions of this Act. Any violation of this Section shall be deemed a misdemeanor and be punishable, as provided in Section 21 of this Act.

Any producer handling or dealing in his own products exclusively, shall be licensed, upon application, by the Commissioner of Agriculture without charge and without being required to give a bond. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #78, § 1.]

Effective Oct. 27, 1937.

Section 2 of the amendatory act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

Director and examiner; appointment; salary

Sec. 26. [Repealed by Acts 1937, 45th Leg., 1st C.S., S.B. # 24, § 2.]

Effective 90 days after May 22, 1937, date Emergency section. See note under article of adjournment of Regular Session of the 45th Legislature. title 1287-1, § 9, post.

Applicable to Texas Citrus Zone only

Sec. 27. The terms of this Act pertaining to necessity for and collection of license fees shall apply only to those entering into, or to those doing business in the Texas Citrus Zone, as said area is defined in Section 1, of House Bill No. 553, Chapter 350, General Laws of Texas, Regular Session, 1931.¹

¹ Penal Code, art. 1700a-2.

Partial invalidity

Sec. 28. If any section, sentence, clause, phrase, or portion of this Act shall be held unconstitutional, then such holding shall not affect the

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validity of the remainder thereof, but same shall remain in full force and effect. [Acts 1937, 45th Leg., H.B. #99.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 29 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act providing for the purchasing, handling, sale, and accounting of sales of citrus fruit grown in the State of Texas; defining terms as used herein; providing for bond and license for citrus fruit dealers; prescribing and fixing duties and powers of the Commissioner of Agriculture

with reference to the Act and its operation and enforcement; defining offenses and prescribing penalties for the violation of this Act; providing for the appointment of a director and examiner; fixing salaries and other regulations; providing the terms of this Act shall apply only to those entering into, or doing business in the Texas Citrus Zone, as defined in Section 1, of House Bill No. 553, Chapter 350, General Laws of Texas, Regular Session 1931; providing a saving clause, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #99.]

CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art.

135a—2. Mexican fruit fly control and eradication; definitions [New].

Art. 135a—2. Mexican fruit fly control and eradication; definitions

Section 1. (1) This Act shall be known and may be cited as the Mexican Fruit Fly Control and Eradication Act.

(2) As used in this Act, unless otherwise apparent from the context:

(a) The present tense includes the past and future tenses; and the future, the present.

(b) The masculine gender includes the feminine and neuter.

(c) The singular number includes the plural and the plural, the singular.

(d) "Department" means the Department of Agriculture of the State of Texas.

(e) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(f) "Section" means the Section of this Act unless some other Act is specifically mentioned.

(g) "Person" includes individual, partnership, firm, corporation, company, or association.

(h) "Sale" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(i) The word "premises" as used in this Act shall mean any grove, orchard, farm, yard, lawn, or tract of land upon which citrus or other host fruit is grown, whether or not the same shall be enclosed, or any barn, storehouse, warehouse, shed, boxcar, truck, or any other building, receptacle, or conveyance whatsoever susceptible of use for the storage, packing, processing, or transportation of citrus or other host fruits.

(j) The words "host-free period," when used in this Act, shall be construed to mean a period of time during which no host fruits in any stage of development shall be produced or permitted to remain upon trees in the quarantined area. The Commissioner is hereby authorized to adopt the host-free period promulgated by the United States Department of Agriculture in the Citrus Quarantine Regulations governing Mexican fruit fly quarantine in the State of Texas, and this Act shall conform to such period as promulgated by the United States Department of Agriculture as to the beginning, continuance, and end of such host-free period.

(k) The words "host fruit," as used in this Act, shall be construed to mean fruits susceptible to infestation by the Mexican fruit fly, namely,

mangoes, sapotas (including sapodillas and the fruit of all members of the family Sapotaceae and of the genus Casimiroa and all other fruits commonly called sapotas or sapotes), peaches, guavas, apples, pears, plums, quinces, apricots, mameys, ciruelas, and such other fruits as may in the future be found to be host to the Mexican fruit fly and are specifically declared to be host fruits by the Commissioner, and all citrus fruits except lemons, sour limes, calamondin, and normal-bloom citrus. The words "normal-bloom citrus," as used in this paragraph, shall be construed to mean that citrus which, because of its stage of development during the host-free period, will mature during the normal harvesting period. The "normal harvest period," as the words are used in this paragraph, shall be construed to mean that period of the year not within the host-free period. It is the intent of the Legislature and it is hereby specifically provided that all old crop fruit be removed from all premises in the quarantined area at the beginning of the annual host-free period.

(1) The words "fruit fly," as used in this Act, shall be construed to mean the insect known as the Mexican fruit fly, or *Anastrepha ludens*, Loew.

(m) The term "infested premises," as used in this Act, shall be construed to mean those premises upon which larvae of the Mexican fruit fly have been found or are known to exist.

(n) The "quarantined area," as the term is used herein, is hereby construed to mean those counties and parts of counties designated for fruit fly eradication or control by the Commissioner and proclaimed by the Governor of the State of Texas, as is herein provided.

(o) The "modified quarantined area" is hereby defined as meaning those counties or parts of counties which shall be designated as such by the Commissioner and proclaimed by the Governor of the State of Texas under the terms of this Act. The "free area" is hereby defined as meaning those counties or parts of counties which have not been designated by the Commissioner and proclaimed by the Governor to be quarantined or modified quarantined area.

Persons enforcing as peace officers

Sec. 2. (1) Any person in whom the enforcement of any provision of this Act is invested has the power of a peace officer as to such enforcement.

(2) The District or County Attorney of any county in which a violation of any provision of this Act occurs shall, upon the request of the Commissioner, his deputies, inspectors, any enforcing officer, or other interested person, prosecute such violation.

(3) Unless a different penalty is expressly provided, a violation of any provision of this Act is a misdemeanor.

(4) Whenever any notice, report, statement, or record is required by this Act, it shall be in writing, unless it is expressly provided that it may be oral.

(5) Whenever any notice, report, statement, or record is required by this Act to be kept or made in writing, it shall be in the English language.

(6) Whenever any power or authority is given by any provision of this Act to any person, it may be exercised by any deputy, inspector, or agent duly authorized by him, unless it is expressly provided that it shall be exercised in person.

(7) As used in this Act, the word "shall" is mandatory and the word "may" is permissive.

(8) The Commissioner may enter upon any premises to inspect the same or any tree, plant, shrub, or fruit growing or stored therein.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(9) The Commissioner is hereby authorized to promulgate and adopt rules and regulations for carrying out those provisions of this Act which he is directed and authorized to administer and enforce.

Commissioner of Agriculture; powers and duties

Sec. 3. (1) It shall be the duty of the Commissioner to control and/or eradicate the Mexican fruit fly in the State of Texas and to protect all premises, as defined herein, within the State of Texas from such pest. The Commissioner shall adopt necessary rules and regulations to be proclaimed by the Governor of the State of Texas for carrying out the provisions of this Act.

(2) It shall be the duty of the Commissioner, when advised of the existence of Mexican fruit fly within any county or part of county in this State, to certify such fact to the Governor of Texas who shall then proclaim such county or part of county to be quarantined, and such county or part of county shall thereafter be dealt with by the Commissioner as is herein provided. The following Counties and parts of Counties in the State of Texas are hereby declared to be quarantined area and are hereby quarantined because the Mexican fruit fly is therein known to exist, to wit: the Counties of Cameron, Hidalgo, and Willacy.

(3) The Commissioner is hereby authorized, when, in his judgment, the exigencies of the situation so require, to designate a modified quarantined area, which designation is to be by the Commissioner certified to the Governor to be proclaimed as such. The Commissioner shall adopt such rules and regulations as are necessary for the regulation of such modified quarantined area.

(4) It shall be the duty of the Commissioners Court of any county in a quarantined or modified quarantined area to appoint a committee of five (5), such committee to be known as the "Citrus Quarantine Advisory Committee," and said committee shall be composed of four (4) growers of citrus fruits, to be nominated and appointed by said Commissioners Court subject to the approval of the Commissioner, and one representative of the Commissioner to be nominated by said Commissioner and appointed by said Court. It shall be the province of said committee, when advised by the Commissioner that an infestation exists within any premises in said county, to determine the extent of such infestation, and when the extent of such infestation shall have been determined by such quarantine advisory committee, such committee shall recommend to the Commissioner the procedure for eliminating such infestation.

(5) Whenever any county, part of county, district, or territory is designated for fruit fly control and/or eradication by the Commissioner and proclaimed by the Governor, as herein provided, said proclamation shall contain a provision quarantining said county, part of county, district, or territory, and the effect of such quarantine shall be to quarantine said county, part of county, district, or territory and all premises therein of each individual, owner, lessee, renter, tenant, and occupant in the designated county, part of county, district, or territory without specifically designating said land or premises. The quarantine of such area shall be considered as continuing until said quarantine has been modified or removed by the Commissioner.

(6) When any premises within the quarantined area are found by an accredited entomologist to be infested, as the term is defined herein, such entomologist shall certify the fact of such infestation to the Commissioner. It shall thereupon be the duty of the Commissioner to satisfy himself as to the existence of such infestation and the extent thereof. The Commissioner may refer the fact of such infestation to the Citrus Quarantine Advisory Committee of the county in which such premises are located, or if such premises be located in more than one county, then to

the Citrus Quarantine Advisory Committee of any county in which a portion of such premises lies situate. It shall be the duty of the Commissioner to decide the manner best suited to the control and/or eradication of such infestation, taking into consideration the recommendations of the Citrus Quarantine Advisory Committee as to the procedure to be followed. The findings of the Commissioner, together with the directions of the Commissioner, shall be reduced to writing and a copy of such instrument in writing shall be served upon the owner of said premises immediately; such directions shall be mandatory and the owner of said premises shall immediately proceed to comply with such order as regards said premises. The failure to obey such mandatory order of the Commissioner and to place such premises in compliance therewith shall, from and after the effective date of this Act, be a misdemeanor and any person disobeying such mandatory order of the Commissioner shall, on conviction, be fined not more than Two Hundred Dollars (\$200).

(7) The maintenance of any premises, as herein defined, within the fruit fly quarantined area in an unhusbandlike or unsanitary condition is hereby declared to be a public nuisance. The words "unhusbandlike and unsanitary," as used herein, shall be construed to mean the maintaining of such premises with host fruit upon trees located on such premises during the host-free period, or the maintaining of such premises with fallen, refuse, or cull fruit upon the ground, such fallen, or refuse, or cull fruit having been permitted to remain upon the ground and/or premises for a period of seven (7) days during the harvest period. It is the intention of the Legislature that the cleaning of such premises once in each seven-day period within such harvest period shall be mandatory and any person who, within the harvest period, as the same is in this Act defined, shall fail to clean the fallen, or refuse, or cull fruit from his premises at least once in each successive seven-day period, and dispose of the same in a manner satisfactory to the Commissioner, or bury the same at a depth of not less than eighteen (18) inches beneath well tamped soil, or who shall maintain any premises with host fruit upon the trees located on such premises during the host-free period, shall be guilty of maintaining a public nuisance and such person shall, on conviction of maintaining such public nuisance, be fined any sum not to exceed Two Hundred Dollars (\$200).

(8) The Commissioner is hereby authorized to direct owners, part owners, and caretakers of premises subject to the terms of this Act, to place such premises in husbandlike and sanitary condition, said direction to be in writing and signed by said Commissioner or his agent, which signature may be written or stamped thereon; the same shall be dated and shall direct said owner, or part owner, or caretaker, whether such owner, part owner, or caretaker be a person, firm, or corporation, to place such premises in a sanitary condition under the supervision of an inspector of said Commissioner. In the event that the owner of said premises be a nonresident of the State of Texas, the direction of the Commissioner as to the placing of such premises in a sanitary condition shall be sufficient if ten (10) days notice be given to such nonresident owner by registered mail by said Commissioner and/or his agent or inspector.

(9) Whenever the Commissioner shall issue sanitation directions in writing to any owner, part owner, or caretaker of any premises which are located in the quarantined area, it shall be the duty of said owner, part owner, or caretaker to place such premises in a sanitary condition as directed in such written directions. Any owner, part owner, or caretaker of any premises, as herein defined, who fails or refuses, after the expiration of a ten-day period of notice, as provided herein, to place such premises in a sanitary condition, as herein defined, shall be deemed guilty

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of a misdemeanor and upon conviction shall be fined not more than Two Hundred Dollars (\$200). From and after the effective date of this Act, the maintenance by any person on any premises within the quarantined area of any growing host fruit, as herein defined, within the host-free period, as herein defined, shall be unlawful, and any person convicted of a violation of this provision shall be fined not more than Two Hundred Dollars (\$200).

Appeals from orders of Commissioner

Sec. 4. (1) Any person, firm, or corporation aggrieved by any order of the Commissioner may appeal to any Court of competent jurisdiction within the county in which such premises lie situate.

(2) Owners and caretakers of premises subject to sanitary directions of the Commissioner under the provisions of this Act, shall furnish all necessary labor at their own expense for placing such premises in a husbandlike and sanitary condition. Administrators, executors, and guardians are hereby declared to be the caretakers of the premises within their jurisdiction and control and shall be held responsible for the execution of all sanitary directions issued by the Commissioner relating in whole or in part to the estate under their control by reason of said administration or guardianship. Husband and wife shall be held jointly and severally liable for the execution of sanitary directions of the Commissioner relating to their community estate, and the husband shall be held liable for the execution of such directions relating to his separate estate, and the wife shall be held liable for the execution of such directions relating to her separate estate, providing that the husband shall be held liable for failure to follow directions of the Commissioner relating to the separate estate of the wife, and the wife shall be held liable for the execution of directions of the Commissioner relating to the separate property of the husband, if either is the caretaker of such premises belonging to the separate estate of the other.

(3) When the Commissioner ascertains that a person, firm, or corporation is the owner, part owner, or caretaker of any premises which are subject to sanitary direction of the Commissioner under the provisions of this Act, and such directions are issued by the Commissioner, as herein provided, it shall be presumed that, at and on the date of the expiration of the notice period herein provided, said person, firm, or corporation was still the owner, or part owner, or caretaker, as the case may be, of such premises, and it shall only be necessary for the State to allege and prove that at the time of the service of said written sanitary directions, said person, firm, or corporation was the owner, or part owner, or caretaker of such premises subject to the sanitary directions of the Commissioner.

(4) Upon the failure of any owner, part owner, or caretaker to comply with a written sanitary order of the Commissioner, under the terms and provisions of this Act, in the manner and within ten (10) days from and after the receipt of such written sanitary order, it shall be the duty of the Commissioner and/or his agents or inspectors to institute proceedings in a Court of competent jurisdiction in the county in which such premises lie situate to have such premises declared a nuisance by law. No cost bond shall be required of the Commissioner or his agents in the filing of such proceeding. The Commissioner and/or his agents or inspectors may, if the circumstances so warrant, petition the Court to appoint a receiver for such premises. The Court shall hear the petition with regard to such premises in termtime or in vacation, and if heard in vacation the same may be as fully disposed of and all issues determined in vacation the same as in termtime. The owner of such premises shall give such notice as the Court shall deem necessary. If, in the judgment

of the Court, such premises are found to be a public nuisance, it shall be the duty of the Commissioner, his agents, or inspectors to go upon such premises, with a sufficient number of helpers and to place such premises in compliance with the directions of the Commissioner. The Commissioner, his agents and/or inspectors shall be allowed the sum of not to exceed Twenty-five (25) Cents per man hour for each and every hour actually expended in placing such premises in compliance with the written directions of the Commissioner, together with an additional fee in the sum of Twenty-five Dollars (\$25), which is hereby declared to be a reasonable recompense for the time involved in the execution of such compliance order, and is in no wise to be construed as a penalty. The aforesaid sum of Twenty-five Dollars (\$25) shall be delivered to the Commissioner, who shall place the same in a fund to be known as the "Orchard Sanitation Fund" and the same shall be expended in the enforcement of the provisions of this Act by the Commissioner. A lien is hereby given said Commissioner, his agents, and/or inspectors upon all citrus fruit growing or standing on such premises for the purpose of securing the payment of the aforesaid sums, and said officers are authorized to retain in their possession and sell at public sale to the highest bidder at any time at the courthouse door of said county such citrus fruit as may be found upon said premises for the purpose of paying the fees herein provided, the residue, if any, to be paid to the owner of said premises or paid to the County Treasurer subject to the order of the owner, provided, however, that if, in the judgment of the Court, a receiver for such premises be named, and such receiver shall be named, then the provisions of this Section as to the sale of fruit found upon said premises shall be executed by said receiver and the fees herein provided for such services as shall be rendered by the Commissioner, his agents, and/or inspectors, shall be paid to the Commissioner by said receiver and the residue, if any, shall be paid by said receiver to the owner of said premises or to the County Treasurer subject to the order of said owner.

(5) In lieu of the sale of said citrus fruit, as provided in the preceding Section, said officer may fix said lien by filing with the County Clerk of the county in which said premises are located, a sworn statement of said indebtedness, together with a description of the property or properties upon which said lien is to be placed. Such lien shall be filed within thirty (30) days after the enforcement of the directions of the Commissioner by said officers, and suit shall be filed in a Court of competent jurisdiction against the owner of said premises within twenty-four (24) months after filing said statement for the collection of said account and the foreclosure of said lien. No cost bond shall be required of said officer filing said suit, nor of any person to whom said account may be assigned. The Court shall enter judgment for said debt with interest and costs of suit and foreclosing said lien on such premises as the Court may deem necessary for defraying said expenses and paying said fees to said officer and Court costs. Said officer may file a separate statement and separate suit covering each necessary compliance with a written direction of the Commissioner, or may wait until a number of them accrue and sue in the aggregate in one suit and a statement may be filed covering all of said necessary compliances with written directions of the Commissioner.

Peace officers may perform acts of Commissioner

Sec. 5. (1) Where, by any provision of the two (2) preceding Sections of this Act, the Commissioner, his agent, and/or inspector is authorized to perform any act, the same shall also include any and all peace officers of this State who may be legally authorized by any law to perform service in such territory.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(2) Any resident or residents of any county or part of county in which fruit fly control and/or eradication is being conducted may bring mandatory injunction to compel owners, part owners, or caretakers to place their premises in sanitary condition under the provisions of this Act after said owner, part owner, or caretaker has failed or refused, or is threatening, or has threatened to refuse or fail to comply with the written directions of the Commissioner, and the Court may, in termtime or vacation, upon notice to the defendant, hear and determine the same, and if the Court finds that said owner, part owner, or caretaker has been served with a written sanitary direction from the Commissioner, and that the defendant's premises are subject to said order, and that the material allegations in plaintiff's petition are true, the Court shall enter its order commanding said owner or caretaker to instantly comply with the written directions of the Commissioner, and upon failure of said person to comply with said written directions of the Commissioner, he shall then be held liable for contempt of Court and punished accordingly.

(3) Whenever the Commissioner ascertains that there are premises in any county in which fruit fly control and/or eradication is being conducted under the provision of this Act for which he can locate no owner or caretaker, said Commissioner is hereby authorized to seize the citrus fruit growing or standing on said premises and to sell the same in the manner and for the purposes heretofore provided.

(4) Any person, firm, or corporation, or transportation company who shall haul, or truck, or otherwise move any citrus fruit from any premises as herein described, or from any county, or part of county, or territory, or district which is under quarantine by virtue of this Act or by any order of the Commissioner of Agriculture of the State of Texas, or by a proclamation of the Governor of the State of Texas because of fruit fly infestation as provided for in this Act, in violation of said quarantine without a written permit or certificate of an inspector of the Department of Agriculture of the State of Texas, or inspector of the Bureau of Entomology and Plant Quarantine of the United States Department of Agriculture, or who shall so move into the State of Texas from any State, nation, territory, or area under quarantine for fruit fly infestation by the said Commissioner of Agriculture of the State of Texas, or by the United States Bureau of Entomology and Plant Quarantine, or by the sanitary authorities of the State, or nation, or territory from which they are moved without a certificate from the Commissioner of Agriculture of the State of Texas, or that having such permit or certificate from said Commissioner shall ship, truck, or in any manner transport such citrus fruit from said quarantined premises to any other place than the place designated by such certificate or permit, shall be fined not more than Two Hundred Dollars (\$200). Any owner, part owner, or caretaker of such premises or citrus fruit, who shall permit or allow such citrus fruit to be shipped or transported, or otherwise moved in violation of this Act without said permit or certificate, shall be deemed guilty of violating this provision the same as if he had personally shipped or transported such citrus fruit.

(5) Any resident of this State may bring injunction suit to compel the compliance with any provisions of this Act or restrain any threatened violation of same. Said injunctions and mandamus proceedings may be heard in vacation or termtime and if heard in vacation, the same may as fully be disposed of and all issues determined in vacation the same as in termtime. Notice of said hearing to the opposite party may be given under the direction of the Court, if, in the opinion of the Court, the ends of justice require such notice.

Penalty

Sec. 6. The violation of any of the terms or provisions of this Act is hereby declared to be a misdemeanor, and any person found guilty of

the violation of any of the terms or provisions of this Act shall, on conviction, be fined not to exceed Two Hundred Dollars (\$200).

Provisions cumulative

Sec. 7. This Act shall be cumulative of all laws now on the Statutes providing for quarantine regulations and the inspection of plants, fruits, and shrubs to prevent the importation or dissemination of dangerous insect pests and plant diseases in this State.

Severable construction

Sec. 8. If any section, subsection, sentence, clause, or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional. [Acts 1937, 45th Leg., H.B. #653.]

Effective May 1, 1937.

Section 9 of this Act declares an emergency making the act effective on and after its passage.

Title of Act:

An Act making it the duty of the Commissioner of Agriculture of the State of Texas to control and/or eradicate the Mexican fruit fly in the State of Texas; providing a title for said Act; defining certain terms as used herein; providing a host-free period, and authorizing the Commissioner of Agriculture of the State of Texas to adopt the host-free period promulgated by the United States Department of Agriculture; defining host fruits and making certain exceptions; defining infested premises, as the term is used herein; designating a quarantined area; providing for the extension of the quarantined area by proclamation of the Governor of Texas; authorizing the Commissioner of Agriculture of the State of Texas to designate a modified quarantined area, and to provide rules and regulations appertaining thereto; defining the "free" area; authorizing the Commissioner of Agriculture of the State of Texas to adopt rules and regulations for carrying out the provisions of this Act; providing for a citrus quarantine advisory committee and designating procedure for appointment of such committee; providing procedure for dealing with infested premises; providing for the issuance of mandatory sanitation orders by the Commissioner, making the maintenance of premises in an unhusbandlike and unsanitary condition illegal, and providing a penalty; making the maintaining of premises with host fruit thereon during the host-free period illegal and providing a penalty; declaring maintenance of premises under certain conditions a public nuisance and providing a penalty; providing that failure to obey any order of the Commissioner is a violation of this Act and providing a penalty; enumerating persons to whom the

terms of this Act shall apply; providing for periodical cleaning of premises; providing for notice by the Commissioner to parties subject to sanitation orders; providing for an appeal by parties aggrieved; providing that ownership of premises shall be presumed under certain circumstances; providing for Court procedure by Commissioner to have premises declared a public nuisance; providing for full determination of nuisance question by Courts in vacation as well as termtime; providing for entrance upon premises by Commissioner and the placing of same in compliance with the Commissioner's orders; providing that no cost bond shall be furnished by the Commissioner; providing for fees for Commissioner and his employees for execution of compliance orders; providing for an orchard sanitation fund and the expenditure thereof; providing for discretionary receiverships by Courts; providing for sale of fruit by Commissioner or receiver, and for the application of proceeds of such sales; providing for a lien, or liens, in favor of the Commissioner, and that same may be cumulative, and for the registration thereof; providing for suit to enforce such liens and that no bond be required of officer or assignee in the filing of same; providing that duties imposed on the Commissioner may be executed by his agents and/or inspectors; providing that parties damaged by noncompliance with terms of this Act may have injunctive remedy; providing for full determination as to injunctive relief in vacation as well as in termtime; providing procedure for dealing with premises whose owners are missing and/or unknown; providing for certification and regulation of citrus shipments intrastate and interstate, and within and without the quarantined area; making this Act cumulative; providing a saving clause; providing penalties, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #653.]

CHAPTER EIGHT—EXPERIMENT STATIONS

1. STATE EXPERIMENT STATIONS

Art.

149g. Experimental station in El Paso district [New].

1. STATE EXPERIMENT STATIONS

Art. 149g. Experimental station in El Paso district

Section 1. That the Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to establish and maintain a horticultural and agricultural experiment station at some point within the limits of the El Paso irrigated valley in the State of Texas, for the purpose of making scientific investigations and experiments in the production of cotton, alfalfa, and farm crops, and fruits, berries, grapes, nuts, and vegetables; and for the development of information as to the best methods of management and use of irrigated soils and irrigation waters; and for conducting scientific experiments in animal husbandry, including the breeding, feeding, treating, and preparing for market of cattle, sheep, hogs, and other livestock, and in poultry raising, dairying, and bee culture, and for the purpose of studying the other impending horticultural and agricultural problems of that area.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College is empowered to acquire a suitable site for the location of said horticultural and agricultural experiment station within the territory described in the next preceding Section of this Act containing such amount of land, not less than one hundred and sixty (160) acres, well adapted to the purposes aforesaid. The said Board of Directors is authorized to accept donations of land, water, and money for the establishment, equipment, and maintenance of said station.

Sec. 3. The horticultural and agricultural experiment station hereby provided for, shall be under the general direction and supervision of the Board of Directors of said Agricultural and Mechanical College of Texas, and shall be operated and conducted by the Directors of Experiment Stations, as all other experiment stations are now conducted.

Sec. 4. It is especially provided, however, that unless there be contributed to the use and benefit of said horticultural and agricultural experiment station by persons interested in the establishment thereof, lands suitable for the purpose of said experiment station, in such acreage as to meet the requirements of said station, with water available for irrigation, or of such amount of money or other property as may be necessary to purchase a tract of land suitable for said purposes and having available water for irrigation purposes thereon, said horticultural and agricultural experiment station shall not be established. [Acts 1937, 45th Leg., H.B. #1009.]

Acts 1937, 45th Leg., H.B. #1009 became a law without Governor's signature and was filed April 26, 1937.

Section 5 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act to authorize the Board of Directors of the Agricultural and Mechanical College of Texas to establish and maintain a horticultural and agricultural

experiment station at some point within the limits of the El Paso irrigated valley in the State of Texas for the purpose of making scientific investigations and experiments in the production of cotton, alfalfa, and farm crops, and of fruits, berries, grapes, nuts, and vegetables and for the development of information as to the best methods of management and use of irrigated soils and irrigation waters, and for conducting scientific experiments in

poultry raising, dairying, animal husbandry, and bee culture; and of studying other impending horticultural and agricultural problems of that area; authorizing said Board of Directors to acquire a suitable site therefor, and to accept donations of land and money for said purpose, also irrigation water; providing that such experiment station shall be under the

supervision of said Board of Directors, and providing that unless donations of land with available irrigation water or money for the purchase of same sufficient for such experiment station are made for said purposes, said experiment station shall not be established, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1009.]

CHAPTER TEN—MILK PRODUCERS AND DISTRIBUTORS

Art.

165—3. Milk grading and pasteurization
[New].

Art. 165—3. Milk grading and pasteurization; definitions

Section 1. The following definitions shall apply in the interpretation of this Act:—

(A). Milk. Milk is hereby defined to be the lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within fifteen days before and five days after calving, or such longer period as may be necessary to render the milk practically colostrum free; which contains not less than eight per cent (8%) of milk solids-not-fat, and not less than three and one-fourth per cent (3¼%) of milk fat.

(B). Pasteurized Milk or Milk Products. Pasteurized milk or milk products is milk or milk products every particle of which has been heated to a temperature of not less than 142° F., and held at such temperature for not less than 30 minutes in pasteurization apparatus approved by the State Health Officer, provided that approval shall be limited to apparatus which requires a combined holder and indicating thermometer temperature tolerance of not more than 1½° F., as shown by official tests with suitable testing equipment, and provided that such apparatus shall be operated as directed by the State Health Officer and so that the indicating thermometers and the recording thermometer charts both indicate a temperature of not less than 143½° F., continuously throughout the holding period. The term "pasteurization", "pasteurized", and similar terms shall also include the process of heating every particle of milk or milk products to 160° F., and holding at that temperature or above for not less than 15 seconds in apparatus designed and operated in accordance with specifications approved by the State Health Officer. Provided that nothing contained in this definition shall be construed as disbaring any other process which has been demonstrated as of at least equal efficiency and is approved by the State health authority.

(C). Milk Fat or Butter Fat. Milk fat or butter fat is the fat of milk.

(D). Cream. Cream is a portion of milk which contains not less than eighteen per cent (18%) milk fat, and the acidity of which is not more than 0.20% expressed as lactic acid.

(E). Skimmed Milk. Skimmed milk is milk from which a sufficient portion of milk fat has been removed to reduce its milk fat percentage to less than three and one-fourth per cent.

(F). Milk or Skimmed Milk Beverage. A milk beverage or a skimmed milk beverage is a food compound or confection consisting of milk or skimmed milk as the case may be, to which has been added a syrup or flavor consisting of wholesome ingredients.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(G). Buttermilk. Buttermilk is the product which remains when fat is removed from milk or cream in the process of churning. It contains not less than eight per cent (8%) of milk solids-not-fat.

(H). Cultured Buttermilk. Cultured buttermilk is the product resulting from the souring or treatment, by a lactic acid culture, of milk or milk products. It contains not less than eight per cent (8%) of milk solids-not-fat, and shall be pasteurized before adding the culture.

(I). Vitamin D Milk. Vitamin D milk is milk the vitamin D content of which has been increased by a method and in an amount approved by the health officer.

(J). Reconstituted or Recombined Milk. Reconstituted or recombined milk is a product resulting from the recombining of milk constituents with water, and which complies with the standards for milk fat and solids-not-fat of milk as defined herein.

(K). Milk Producer. A milk producer is any person who owns or controls one or more cows, a part or all of the milk or milk-products from which is sold.

(L). Milk Distributor. A milk distributor is any person who offers for sale or sells to another any milk or milk products for human consumption as such.

(M). Dairy or Dairy Farm. A dairy or dairy farm is any place or premises where one or more cows are kept, a part or all of the milk or milk products from which is sold.

(N). Milk Plant. A milk plant is any place, or premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, or prepared for distribution.

(O). Milk Products. Milk products shall be taken to mean and include cream, vitamin D milk, buttermilk, cultured buttermilk, skimmed milk, reconstituted or recombined milk, milk beverages, and skimmed milk beverages. Section 4 shall also refer to ice cream, milk powder, condensed milk, butter, cheese, or similar products.

(P). Grades "A", "B", "C", and "D" Raw Milk or Milk Products. Grades "A", "B", "C", and "D" raw milk or milk products are milk or milk products which have been produced and handled in accordance with the specifications and requirements as promulgated by the State Health Officer and which grade and grade label has been determined and awarded by a City or County Health Officer or by his representative.

(Q). Grades "A", "B", and "C" Pasteurized Milk or Milk Products. Grades "A", "B", and "C" pasteurized milk or milk products are milk or milk products which have been produced and pasteurized in accordance with the specifications and requirements as promulgated by the State Health Officer and which grade and grade label has been determined and awarded by a City or County Health Officer or by his representative. Provided, however, that pasteurization of milk shall not constitute any change in the grade thereof and all milk shall be sold after pasteurization as the same grade as classified before pasteurization.

State Health Officer to fix specifications

Sec. 2. The State Health Officer is hereby authorized and empowered to define what shall constitute and to fix the specifications for the production of the following grades of raw milk and raw milk products, according to the safety and food value of the same and the sanitary conditions under which the same are produced and handled; to-wit: Grades "A", "B", "C", and "D" raw milk and raw milk products. Provided such specifications defined and fixed by the State Health Officer shall be based upon and in harmony with the specifications for these grades of raw milk and

raw milk products as set forth in the current United States Public Health Service Milk Ordinance.

And the State Health Officer is hereby authorized and empowered to define what shall constitute and to fix the specifications for the production and handling of the following grades of pasteurized milk and pasteurized milk products, according to the safety and food value of the same, and the sanitary conditions under which the same are produced or handled; to-wit: grades "A", "B", and "C" pasteurized milk and pasteurized milk products. Provided such specifications defined and fixed by the State Health Officer shall be based upon and in harmony with the specifications for these grades of pasteurized milk and pasteurized milk products as set forth in the current United States Public Health Service Milk Ordinance.

The definitions, specifications and requirements promulgated by the State Health Officer in accordance with the two foregoing paragraphs of this Act shall become effective three months from the date of their promulgation; and the State Health Officer shall furnish printed copies of such grades, specifications, and requirements to County and City Health Officers, at least thirty days before their effective date.

Any city adopting any specifications and regulations for any grade of milk shall be governed by the specifications and regulations promulgated by the State Health Officer, as herein authorized.

Permits for use of labels in advertising or labeling milk

Sec. 3. Any person, firm, association or corporation desiring to use any grade "A", "B", "C", or "D" label in representing, publishing or advertising any milk or milk products offered for sale or to be sold within this State, shall make application for a permit to the City Health Officer in any incorporated city where the same is to be sold or offered for sale, for a permit to use any such label in advertising, representing, or labeling such milk or milk products; any person, firm, association or corporation that desires to use any grade "A", "B", "C", or "D" label in representing, publishing or advertising any milk or milk products offered for sale or to be sold outside of the limits of any incorporated city or town shall make application to the County Health Officer in any county where the same is to be sold or offered for sale, for a permit to use any such label in advertising, representing, or labeling such milk or milk products; any person, firm, association or corporation desiring to use any grade "A", "B", "C", or "D" label in representing, publishing or advertising any milk or milk products offered for sale or to be sold both within and without the limits of any incorporated city or town, shall make application to both the City Health Officer and the County Health Officer for a permit to use any such label in advertising, representing, or labeling such milk or milk products.

Any city or county health officer receiving such application as provided for in this section is hereby authorized and empowered to take the necessary steps to determine and award the grade of the milk or milk products offered for sale by such applicant, according to the requirements of this Act for grade labels. He shall report to the State Health Officer the name or names of all applicants to whom he has awarded permission to use grade "A", or grade "B" labels, and shall notify the State Health Officer of all such permits revoked by him; provided, that the State Health Officer may exempt the City Health Officer from making such reports in cities that have adopted milk ordinances which in his judgment make such reports unnecessary.

Milk to conform to marked grades

Sec. 4. No milk or milk products sold, produced or offered for sale within this State by any person, firm, association or corporation shall carry a label, device or design marked "grade A", or "grade B", or any other grade, statement, design or device, regarding the safety, sanitary quality or food value of the contents of the container which is misleading or which does not conform to the definitions and requirements of this Act.

No milk or milk products, except those produced or processed by a person, firm, association or corporation having a permit to use a grade "A" label under the provisions of this Act and which are produced, treated and handled in accordance with the specifications and requirements fixed and promulgated by the State Health Officer for grade "A" milk and milk products, shall be represented, published, labeled or advertised as being grade "A" milk or grade "A" milk products.

Construction as to resale of milk in containers

Sec. 5. Nothing in this Act shall be construed as requiring any person, firm, association or corporation to obtain a permit in order to resell or offer for sale in the same container any milk or milk products, representing or advertising the same as a grade of milk or milk products purchased from any person, firm, association or corporation having a permit to so represent or advertise such milk or milk products.

Regulation of grading and labeling by State Health Officer

Sec. 6. The State Health Officer is hereby authorized and empowered to supervise and regulate the grading and labeling of milk and milk products in conformity with the standards, specifications and requirements which he promulgates for such grades, and in conformity with the definitions of this Act; and he and his representatives shall have the power to revoke and re-grade permits issued by any local health officials, when upon examination he or his representative shall find that such permit for the use of any grade label does not conform to the specifications or requirements promulgated by him in conformity to this Act.

Enabling clause

Sec. 7. The governing body of any city in the State of Texas may make mandatory, the grading and labeling of milk and milk products sold or offered for sale under the United States Standard Milk Ordinance within their respective jurisdictions as defined herein according to Definition (P) Section 1 for grades "A", "B", "C", and "D" Raw milk or Milk Products, and Definition (Q) for grades "A", "B", and "C" pasteurized milk or milk products by adopting an ordinance to that effect and by providing the necessary facilities for determining the grades and for the enforcement of this Act. Provided, however, the provisions of this Section shall apply only to milk or milk products, sold or offered for sale by any person, partnership, or corporation directly to the consumer of such milk or milk products.

Penalty

Sec. 8. Whoever violates any provision of this Act shall be fined in the sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars and each separate violation shall constitute a separate offense. [Acts 1937, 45th Leg., S.B. #83.]

Effective April 19, 1937.

Section 9 declared an emergency mak-

ing the act effective on and after its passage.

Title of Act:

An Act providing for the protection of the public health; defining certain terms used in the Act; authorizing the State Health Officer to define and fix the specifications for certain grades of milk and milk products as defined in the Act; authorizing the State Health Officer and his representatives to supervise and regulate the labeling of milk and milk products; providing for grading of pasteurized milk; enabling cities and counties to require all milk sold within their boundaries to be graded and labeled; forbidding the use of certain grade labels except under cer-

tain conditions and providing penalties and remedies for violation of said provision; providing that specifications for grade of milk shall conform to the current United States Public Health Ordinance; forbidding the use of grade labels or other designs or device misrepresenting the contents of any container of milk or milk products; providing remedies and penalties for the enforcement of this Act; provided that if any portion of the Act be held inoperative or invalid the remainder of the Act shall be unaffected thereby and declaring an emergency. [Acts 1937, 45th Leg., S.B. #83.]

TITLE 7—ANIMALS

2. DESTRUCTION OF ANIMALS

Art.

190f. Destruction of ravens and predatory animals in Callahan and other counties [New].

190g. Bounties on rattlesnakes and predatory animals in Bell County [New].

2. DESTRUCTION OF ANIMALS

Art. 190f. Destruction of ravens and predatory animals in Callahan and other counties

It is hereafter lawful for the Commissioners Courts of Callahan, Eastland, and Taylor Counties to pay out of the General Fund of said Counties bounties for the destruction of ravens, rabbits, rattlesnakes, and other predatory animals within said Counties as hereinafter provided.

The Commissioners Courts may by resolution entered upon its minutes provide for the destruction of such ravens, rabbits, rattlesnakes, and other predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of ravens, rabbits, rattlesnakes, and other predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the Counties by the Judges of such Counties on the filing with them of such proof as the Commissioners Courts may require. [Acts 1937, 45th Leg., H.B. #1048, § 1.]

Effective May 1, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act granting the Commissioners Courts of Callahan, Eastland, and Taylor

Counties permission to pay out of the General Fund of said Counties bounties for the destruction of rabbits, rattlesnakes, and ravens; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1048.]

Art. 190g. Bounties on rattlesnakes and predatory animals in Bell County

It is hereafter lawful for the Commissioners Court of Bell County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require. [Acts 1937, 45th Leg., 1st C.S., H.B. # 39, § 1.]

Effective July 7, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act granting the Commissioners

Court of Bell County permission to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals; and declaring an emergency. [Acts 1937, 45th Leg. 1st C.S., H.B. # 39.]

TITLE 8—APPORTIONMENT

Art. 199. [30] [22] [17] [Judicial Districts]

3.—Houston, Henderson, and Anderson:

3. The Third Judicial District of the State of Texas shall be composed of the Counties of Anderson, Henderson and Houston, and from and after August 16, 1937, the terms of the District Court within said Counties shall be held therein as follows:

In the County of Anderson on the first Monday in December and may continue in session eight weeks; on the eighteenth Monday after the first Monday in December, and may continue in session eight weeks; and on the thirty-first Monday after the first Monday in December, and may continue in session five weeks;

In the County of Henderson on the eighth Monday after the first Monday in December and may continue in session five weeks; on the twenty-sixth Monday after the first Monday in December, and may continue in session five weeks; and on the thirty-ninth Monday after the first Monday in December and may continue in session five weeks;

In the County of Houston on the thirteenth Monday after the first Monday in December and may continue five weeks; on the thirty-sixth Monday after the first Monday in December, and may continue in session one week; and on the forty-fourth Monday after the first Monday in December, and may continue in session eight weeks. [As amended Acts 1937, 45th Leg., S.B. #465, § 1.]

Section 2 of the amendatory Act of 1937 reads as follows: "All processes, all writs and bonds, civil and criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Court as heretofore fixed by law in the several Counties composing the said Third Judicial District, as well as all grand and petit jurors, are hereby made returnable to the terms of said Courts, as said terms are here now fixed by this Act, and in conformity with the change herein made, and all bonds executed and recognizances entered into in said Courts, shall bind the parties for their appearance or to ful-

fill the obligations of such bonds and recognizances at the two terms of said Courts as they are fixed by this Act, and all process of every kind heretofore returned to, as well as all bonds and recognizances heretofore taken or hereafter entered into after this Act takes effect in any of said Courts, in said District, shall be as valid and as binding as if no change had been made in the time of holding said Court."

Section 3 repeals all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after August 16, 1937.

4.—Rusk.

Special District Court of Rusk County.

Sec. 4. The said Special District Court of Rusk County, Texas, shall be composed of Rusk County, Texas alone, and shall automatically cease to exist on June 15, 1941. [As amended Acts 1937, 45th Leg., S.B. #485, § 1.]

Amendment of 1937 effective April 26, 1937.

Section 2 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

5.—Bowie—Cass—Marion.

That the Fifth Judicial District of Texas shall be composed of the counties of Bowie, Cass and Marion, and the terms of the District Courts within said counties shall be as follows:

In Marion County on the first (1st) Monday in January of each year and may continue in session four (4) weeks; on the thirty-sixth (36th) Monday after the first (1st) Monday in January and may continue in session six (6) weeks.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

In Cass County beginning on the fourth (4th) Monday after the first (1st) Monday in January and may continue in session ten (10) weeks; on the twentieth (20th) Monday after the first (1st) Monday in January and continue in session ten (10) weeks; on the forty-second (42nd) Monday after the first (1st) Monday in January and continue in session ten (10) weeks.

In Bowie County on the fourteenth (14th) Monday after the first (1st) Monday in January and continue in session six (6) weeks; on the thirtieth (30th) Monday after the first (1st) Monday in January and continue in session six (6) weeks.

The Clerk of the District Court in each of said counties and his successors in office shall be the Clerk of the Fifth District Court in said counties and shall perform all duties pertaining to the Clerkship of said Court.

The District Court of the Fifth Judicial District in Bowie and Cass Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law. The District Court of the Fifth Judicial District in Marion County shall have jurisdiction over civil matters only; and said Court in Marion County shall have concurrent jurisdiction with the 76th District Court in said County as to all causes of action of a civil nature, and all such causes of action not disposed of at the end of the terms, either of the Fifth Judicial District or the 76th Judicial District, shall, by operation of law, be transferred from the Court whose term is then expiring to the other Court, and said Courts, and the Judges thereof, in vacation, may transfer from one Court to the other in causes of action of a civil nature when deemed advisable by said Court so to do.

Said Fifth District Court shall also have concurrent jurisdiction in Bowie County with the 102nd Judicial District Court, and all causes of action of a civil nature pending in either court in said county shall, at the end of each term of such Court in which the same is pending, be transferred by operation of law to the other Court, except where the next succeeding term of the 102nd District Court will convene before the next term of the Fifth District Court in said county; and said Courts, and the Judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective Courts to the other District Court in said county by an order entered upon the minutes of their respective Courts.

All process issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Courts of the several counties as herein fixed respectively as though issued and served for such terms and courts returnable to and drawn for the same.

The Judge and all District Officers of the Fifth Judicial District as heretofore constituted shall be the Judge and District Officers of the Fifth Judicial District as constituted and reorganized by this section during the terms for which they were elected. [As amended Acts 1937, 45th Leg., S.B. #432, § 1.]

Effective April 10, 1937.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of

laws; Section 3 declared an emergency and provided that the act should take effect from and after its passage.

7.—Upshur, Wood and Smith.

Special District Court of Smith County.

Sec. 17. The provisions of this Act shall end and terminate June 15, 1941. [As amended Acts 1937, 45th Leg., S.B. #332, § 1.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment. Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

9.—Polk, San Jacinto, Montgomery and Waller.

Temporary Terms

Section 1. The Ninth Judicial District of the State of Texas shall be composed of the Counties of Polk, San Jacinto, Waller, and Montgomery and, from and after the effective date of this Act to the 31st day of December, A. D. 1938, the terms of the District Court in and for the several Counties constituting said Ninth Judicial District shall be begun and holden therein as follows:

In the County of Polk on the first Monday in January and July of each year and may remain in session three (3) weeks.

In the County of San Jacinto on the ninth Monday after the first Monday in January and July each year and may remain in session three (3) weeks.

In the County of Waller on the twelfth Monday after the first Monday in January and July each year and may remain in session six (6) weeks.

In the County of Montgomery on the eighteenth Monday after the first Monday in January and July each year and may remain in session six (6) weeks; and, on the third Monday after the first Monday in January and July each year and may remain in session six (6) weeks.

From and after the 31st day of December, A. D. 1938, the terms of the District Court in and for the several Counties constituting said Ninth Judicial District shall be begun and holden therein as follows:

In the County of Polk on the first Monday in January and July each year and may remain in session six (6) weeks.

In the County of San Jacinto on the ninth Monday after the first Monday in January and July each year and may remain in session three (3) weeks.

In the County of Waller on the twelfth Monday after the first Monday in January and July each year and may remain in session six (6) weeks.

In the County of Montgomery on the eighteenth Monday after the first Monday in January and July each year and may remain in session six (6) weeks; and, on the sixth Monday after the first Monday in January and July each year and may remain in session three (3) weeks.

Sec. 2. That all processes and writs issued out of the District Courts of said respective Counties and returnable to the terms of Court in said Counties as fixed at the time of the issuance of same are hereby made returnable to the terms of the District Courts of said respective Counties as said terms are fixed by this Act, and all bonds executed and recognizances entered into in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of said Courts as they are fixed by this Act, and all processes heretofore returned or hereafter returned as well as all bonds and recognizances heretofore taken or hereafter taken in the District Courts of said respective Counties shall be as valid as though no change had been made in the time of holding Courts therein, and all grand and petit jurors drawn and selected under existing laws for any of the Counties of said District are hereby declared lawfully drawn and selected for the first term of the District Courts of such respective Counties held in conformity with this Act.

Sec. 3. Should any District Court of the Ninth Judicial District be in session in any of the Counties of said District, under existing laws, when this Act takes effect, such Court shall continue and end its term under such existing laws as if no change in the time of holding Courts in said

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

District had been made, and all processes, writs, judgments, decrees, and other proceedings in said Court, during such time, shall be valid to all intents and purposes and shall not be affected by the changes in the times of holding Court therein made by this Act, but after the period provided in the above contingency, the District Courts of the respective Counties herein mentioned shall be held in conformity with the terms as herein prescribed. [Acts 1937, 45th Leg., H.B. #1074.]

Effective May 5, 1937.

Section 4 of this Act repeals all conflicting laws and parts of laws and sec-

tion 5 declares an emergency making the act effective on and after its passage.

Special Ninth District Court of Montgomery, Polk and San Jacinto Counties.

Said Special Ninth District Court of Montgomery, Polk, and San Jacinto Counties shall cease to exist on the 17th day of December, 1938, at which time the provisions of this Act, except those embodied in Section 13 hereof, and the term of office of the Judge of said Court shall expire by limitation of law. [As amended Acts 1937, 45th Leg., H.B. #1065, § 1.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

19, 54, 74.—McLennan.

Section 1. The District Courts of the Nineteenth, Fifty-fourth, and Seventy-fourth Districts shall have concurrent jurisdiction throughout the limits of McLennan County in all civil and criminal cases and proceedings of which District Courts are given jurisdiction by the Constitution and laws of the State.

Sec. 2. The Judges of the Nineteenth and Seventy-fourth Judicial Districts shall never impanel a grand jury in their Courts, but either of them may at any time, when in his judgment a necessity exists therefor, convene the grand jury impaneled by the Judge of the Fifty-fourth District Court.

Sec. 3. The Judges of said Courts may exchange districts whenever they deem it expedient, and a Judge of either of said Courts may sit in any one of said three Courts, either upon the request of the regular Judge thereof or in case of his absence or inability to act.

Sec. 4. Any one of the Judges of said Courts may in his discretion, either in termtime or vacation, transfer any cause or causes, civil or criminal, that may at any time be pending in either of said Courts over which he may be presiding, to any other of said Courts by order or orders entered upon the minutes of his said Court, and where such transfer is made, the Clerk of said Courts shall enter such cause upon the docket of the Court to which such transfer is made, and when so entered upon the docket, the Judge of said Court to which such cause has been transferred, shall try and dispose of said cause in the same manner as if such cause had been filed in said Court.

Sec. 5. All pleadings of any character filed in either of said Courts shall be filed in duplicate, one copy of which shall be marked "original" and the other, "duplicate." The copy marked "original" shall remain at all times in the Clerk's office, or in his custody, or in the Court, except that the Court may, by order entered upon the minutes, allow said original copy to be withdrawn for a limited time whenever necessary upon a certified copy thereof being left on file. The party withdrawing such pleading shall pay the costs of such order and of the certified copy of said pleading.

Sec. 6. Where a case in either of said Courts has been tried and a verdict rendered therein as much as one week prior to the beginning of the last week of the term of such Court, no motion or amended motion for new trial shall be filed therein later than Monday of the last week of said term, except upon special order of said Court granted upon sworn motion showing good cause therefor.

Sec. 7. The terms of said District Courts shall be held therein each year as follows:

The terms of the Nineteenth District Court shall begin on the second Mondays in January, March, May, July, September, and November of each year, and each of said terms may continue until and including the Saturday next preceding the date for the beginning of the next succeeding term unless the business of the term shall be sooner disposed of.

The terms of the Fifty-fourth District Court shall begin on the first Mondays in January, March, May, July, September, and November of each year, and each of said terms may continue until and including the Saturday next preceding the date for the beginning of the next succeeding term unless the business of the term shall be sooner disposed of.

The terms of the Seventy-fourth District Court shall begin on the second Mondays in February, April, June, August, October, and December of each year, and each of said terms may continue until and including the Saturday next preceding the date for the beginning of the next succeeding term unless the business of the term shall be sooner disposed of.

Sec. 8. If either of said Courts be in session at the time this Act takes effect, the term of said Court then in progress shall continue until and terminate on the Saturday next preceding the date for the beginning of the next term of said Court as provided for herein.

Sec. 9. If any part of this law shall be declared unconstitutional, it is hereby declared to be the intent of the Legislature to pass all Constitutional portions thereof notwithstanding. [Acts 1937, 45th Leg., H.B. #561.]

Effective 90 days after May 22, 1937, date of adjournment.

The Act of 1937, cited to the text, seems to provide a substitute for Acts 1893, p. 52, Acts 1915, p. 3, and Acts 1917, p. 13,

defining the jurisdiction of the Nineteenth, Fifty-fourth and Seventy-fourth District Courts, and providing for the terms thereof.

22.—Comal, Hays, Caldwell, Fayette and Austin.

The 22nd Judicial District shall be composed of Counties of Comal, Hays, Caldwell, Fayette and Austin, and the terms of the District Court therein shall be held therein as follows:

- In Austin County, first Monday in January and July;
- In Hays County, first Monday in March and September;
- In Caldwell County, first Monday in April and October;
- In Fayette County, first Monday in May and November;
- In Comal County, first Monday in June and December;

and each term to continue twenty-six weeks, provided that the July-August 1937 Term for Caldwell County shall not be abolished until its termination in August 1937. [As amended Acts 1937, 45th Leg., S.B. #483.]

Amendment of 1937 effective May 21, 1937.

Section 2 of Acts 1937, 45th Leg., S.B. #483, read as follows:

"Sec. 2. That all process, writs and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said Court in each of

said Counties comprising the said Judicial District and all process heretofore returnable as well as all bonds and recognizances heretofore entered into in any of said Courts in said Judicial District shall be valid and binding.

"All process issued or served, before this Act goes into effect to the District Courts

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of any of said Counties, shall be considered as returnable to said Court in accordance with the terms prescribed by this Act and all such process is hereby legalized, and all grand and petit jurors drawn and selected under existing laws in any of said Counties in said Judicial District for a term of Court after the date of this Act becomes effective shall be considered lawfully drawn and selected for the next term of the District Court for these respective

Counties, held in accordance with this Act; provided, however, that if there should be a term of Court being held at the time said Act goes into effect said term of Court shall remain and continue in session until said term has ended and terminated under the law as it now exists for holding terms of Court in said Judicial District."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

27.—Bell, Lampasas, and Mills.

Bell County: On the third Monday in January and may continue in session six weeks; on the sixth Monday after the third Monday in January and may continue in session seven weeks; on the seventeenth Monday after the third Monday in January, and may continue in session eleven weeks; on the sixth Monday after the first Monday in September and may continue in session seven weeks.

Lampasas County: On the fifteenth Monday after the first Monday in January and may continue in session two weeks; on the first Monday in September and may continue in session three weeks; on the thirteenth Monday after the first Monday in September and may continue in session two weeks.

Mills County: On the seventeenth Monday after the first Monday in January and may continue in session two weeks; on the fourth Monday in September and may continue in session three weeks.

Sec. 2. That all process and writ heretofore issued out of said District Court and returnable to terms of said Court, respectively, according to existing laws, are hereby made returnable to the terms of said Court as said terms are fixed by this Act, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearances, or to fulfill the obligations of such bonds and recognizances, at the terms of said Court as they are fixed by this Act, and all process heretofore issued or taken in said District Court shall be as valid as though no change was made in the number of terms or the time of holding said Court herein, and all grand and petit jurors drawn and selected and summoned under existing laws for said Court are hereby declared lawfully drawn and selected and summoned for the first term of said District Court held in each County of said District, in conformity with this Act. [As amended Acts 1937, 45th Leg., H.B. #1176.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

38. Medina, Uvalde, Kendall, Kerr, Bandera, Zavala, and Real.

Medina County: On the second Monday after the first Monday in January, and on the twenty-fourth Monday after the first Monday in January, and may continue three weeks;

Uvalde County: On the fifth Monday after the first Monday in January, and may continue four weeks; on the twenty-first Monday after the first Monday in January, and may continue three weeks; and on the fifth Monday after the first Monday in September, and may continue four weeks;

Kendall County: On the thirteenth Monday after the first Monday in January, and on the ninth Monday after the first Monday in September, and may continue two weeks;

Kerr County: On the ninth Monday after the first Monday in January, and may continue four weeks; and on the second Monday after the first Monday in September, and may continue three weeks;

Bandera County: On the fifteenth Monday after the first Monday in January, and on the eleventh Monday after the first Monday in September, and may continue two weeks;

Zavala County: On the first Monday in January, on the seventeenth Monday after the first Monday in January, and on the first Monday in September, and may continue two weeks;

Real County: On the nineteenth Monday after the first Monday in January, and on the thirteenth Monday after the first Monday in September, and may continue two weeks. [As amended Acts 1937, 45th Leg., H.B. #364, § 1.]

Amendment of 1937, effective July 1, 1937.

Sections 2 and 3 of the amendatory act of 1937, read as follows:

"Sec. 2. This Act shall take effect and be in force from and after the first day of July, 1937, and before the taking effect of this Act all terms of Court shall be held in the several counties composing said Thirty-eighth Judicial District as now provided by Subdivision 38, Article 199, of the Revised Civil Statutes of Texas of 1925, as amended by Act of the Forty-first Legislature, Regular Session, Chapter 60, Page 125, Sections 1, 2, and 3.

"Sec. 3. All processes, all writs and bonds, Civil and Criminal, issued or executed prior or subsequent to the taking effect of this Act and returnable to the terms of said Courts as heretofore fixed by law in the several Counties composing said Thirty-eighth Judicial District, as well as all Grand and Petit Jurors, are

hereby made returnable to the terms of said Courts as said terms are here now fixed by this Act, and in conformity with the changes herein made, and all bonds executed and recognizances entered into in said Courts shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said Court as they are fixed by this Act, and all process of any kind heretofore issued or returned, as well as all bonds and recognizances heretofore or hereafter taken or entered into in any of the Courts of said District, shall be as valid and as binding as if no change had been made in the time of holding said Courts. [Acts 1937, 45th Leg., H.B. # 634.]"

Section 4 repeals all conflicting laws and parts of laws and section 5 declares an emergency making the act effective on and after July 1, 1937.

52. Coryell, Hamilton and Comanche.

52. The Fifty-second Judicial District of Texas shall be composed of the Counties of Coryell, Hamilton, and Comanche, and the terms of District Court shall be held therein as follows: In Coryell County, on the second Monday in January and July, and may continue in session seven weeks; in Hamilton County, on the seventh Monday after the second Monday in January and July, and may continue in session seven weeks; in Comanche County, on the fourteenth Monday after the second Monday in January and July, and may continue in session seven weeks. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #96, § 1.]

Effective Nov. 15, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

62.—Hunt, Lamar, Delta and Franklin.

The 62nd Judicial District of Texas, shall be composed of the Counties of Hunt, Lamar, Delta, and Franklin and the District Courts shall be held therein each year as follows:

In Hunt County, on the first Monday in December and may continue in session eight (8) weeks; and on the third Monday after the third Monday in May, and may continue in session seven (7) weeks;

In Lamar County, on the ninth Monday after the first Monday in December and may continue in session eight (8) weeks; and on the first Monday in August and may continue in session eight (8) weeks;

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In Delta County, on the seventeenth Monday after the first Monday in December and may continue in session three (3) weeks; and on the ninth Monday after the first Monday in August and may continue in session three (3) weeks;

In Franklin County, on the third Monday in May and may continue in session three (3) weeks; and on the first Monday in November and may continue in session three (3) weeks. [As amended Acts 1937, 45th Leg., H.B. #449, § 1.]

Sec. 2. The District Courts of the 8th and 62nd Judicial Districts in Hunt County, shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and laws of the State; and the District Courts of the 6th and 62nd Judicial Districts in Lamar County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and laws of the State; and the District Courts of the 8th and 62nd Judicial Districts in Delta County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and laws of the State; and the 76th and 62nd Judicial District Courts in Franklin County shall have concurrent jurisdiction with each other in said County throughout the limits thereof of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and laws of the State.

Sec. 3. Either of the Judges of the District Court of Hunt County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Hunt, by order or orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Lamar County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Lamar, by order or orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of said Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Delta County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Delta, by order or orders entered upon the minutes of the Court making such transfer; and where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Franklin County may, in his discretion, either in termtime or vacation, transfer

any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Franklin, by order or orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court.

Sec. 4. The Judge of the 62nd Judicial District shall never impanel the Grand Jury in said Court in the Counties of Hunt, Lamar, Delta, and Franklin, unless in his judgment he thinks it necessary.

Sec. 5. All processes, writs issued out of, and bonds and recognizances entered into, and all grand and petit jurors drawn and selected before this Act shall take effect shall be valid and returnable to the next succeeding term of the District Court in and for the several Counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds, and recognizances taken before or issued by the Courts and officers of the various Counties affected by this Act shall be as valid as though no change had been made in the length of the terms or the time of the holding thereof of the District Courts in the Counties affected by this Act.

Sec. 6. The Clerks of the District Courts of Delta and Hunt Counties, respectively, as heretofore constituted, and their successors in office shall be the Clerks of both the 8th and 62nd Districts Courts in said Counties, respectively. The Clerk of the District Court of Lamar County, as heretofore constituted, and his successors in office shall be the Clerk of both the 6th and 62nd District Courts in said County, respectively. The Clerk of the District Court of Franklin County, as heretofore constituted, and his successors in office shall be the Clerk of both the 76th and 62nd District Courts in said County, respectively.

Sec. 7. Should any District Court of the 62nd Judicial District be in session in any of the Counties of said District under existing laws when this Act takes effect such Court shall continue and end its term under existing laws as if no change in the time of holding Court in said District had been made and all processes, writs, judgments, and other proceedings in said Court during such time shall be valid to all intents and purposes and shall not be affected by the changes in the time of holding Court herein made by this Act. After the period provided in the above contingency, the District Courts in said respective Counties hereinafter mentioned, shall be held in conformity with the terms as herein prescribed.

Sec. 8. All laws and parts of laws in conflict with the provisions of this Act shall be, and the same are hereby repealed. [Acts 1937, 45th Leg., H.B. #449.]

Effective April 16, 1937.

emergency making the act effective on and

Section 9 of act of 1937 declared an after its passage.

76.—Titus—Franklin—Camp—Morris—Marion.

That the 76th Judicial District of Texas shall be composed of the counties of Titus, Franklin, Camp, Morris and Marion, and the terms of the District Courts within said counties shall be held therein as follows:

In Titus County on the first (1st) Monday in January of each year and may continue in session six (6) weeks; on the twenty-sixth (26th) Monday after the first (1st) Monday in January and continue in session six (6) weeks.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

In Franklin County beginning on the sixth (6th) Monday after the first (1st) Monday in January and may continue in session four (4) weeks; on the thirty-second (32nd) Monday after the first (1st) Monday in January and may continue in session four (4) weeks.

In Camp County beginning on the tenth (10th) Monday after the first (1st) Monday in January and may continue in session four (4) weeks; on the thirty-sixth (36th) Monday after the first (1st) Monday in January and may continue in session four (4) weeks.

In Morris County on the fourteenth (14th) Monday after the first (1st) Monday in January and may continue in session four (4) weeks; on the fortieth (40th) Monday after the first (1st) Monday in January and may continue in session four (4) weeks.

In Marion County beginning on the eighteenth (18th) Monday after the first (1st) Monday in January and may continue in session for eight (8) weeks; on the forty-fourth (44th) Monday after the first (1st) Monday in January and may continue in session for eight (8) weeks.

The Clerk of the District Court in each of said counties and his successors in office shall be the Clerk of the 76th District Court in said counties and shall perform all duties pertaining to the Clerkship of said Court.

The District Court of the 76th Judicial District in Titus, Franklin, Camp, Morris and Marion Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law; and said 76th Judicial District Court in Marion County shall have concurrent jurisdiction with the Fifth District Court in said county as to all causes of action of a civil nature, and all such causes of action not disposed of at the end of the term, either of the 76th Judicial District or the Fifth Judicial District, shall, by operation of law, be transferred from the Court whose term is expired to the other Court; and said Courts, and the Judges thereof, either in term time or vacation may transfer from one Court to the other any causes of action of a civil nature when deemed advisable by said Court so to do.

All process issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed respectively as though issued and served for such terms and Courts and returnable to and drawn for the same.

The Judge and all district officers of the 76th District as heretofore constituted shall be the Judge and district officers of the 76th Judicial District as constituted and reorganized by this section during the terms for which they each respectively were elected. [As amended Acts 1937, 45th Leg., S.B. #431, § 1.]

Effective April 10, 1937.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of laws; Section 3 declared an emer-

gency and provided that the act should take effect from and after its passage. Franklin County. See, also, 62nd Judicial District.

84.—Carson, Hutchinson, Hansford, Ochiltree and Hemphill.

The 84th Judicial District shall be composed of the Counties of Carson, Hutchinson, Hansford, Ochiltree and Hemphill.

The terms of the District Court for the 84th Judicial District of the State of Texas shall, for and during the remaining portion of the year 1937, after this Act takes effect, be held as follows:

Beginning in Hemphill County on the second Monday in May and may continue in session four weeks.

Beginning in Hutchinson County on the first Monday in June and may continue in session seven weeks.

Beginning in Carson County on the last Monday in August and may continue in session four weeks.

Beginning in Hutchinson County on the last Monday in September and may continue in session five weeks.

Beginning in Hansford County on the first Monday in November and may continue in session two weeks.

Beginning in Ochiltree County on the third Monday in November and may continue in session three weeks.

Beginning in Hemphill County on the first Monday in December and may continue in session four weeks.

The terms of the District Court of the 84th Judicial District of the State of Texas for and during the year A. D., 1938 and thereafter, shall be held in said District for the said year 1938 and each year thereafter as follows:

Beginning in Carson County on the first Monday in January of each year and may continue in session four weeks; and also beginning in Carson County on the last Monday in August of each year and may continue in session four weeks.

Beginning in Hutchinson County on the fourth Monday after the first Monday in January of each year and may continue in session nine weeks; and also beginning in Hutchinson County on the twenty-second Monday after the first Monday in January of each year and may continue in session eight weeks; and also beginning in Hutchinson County on the fourth Monday after the last Monday in August of each year and may continue in session five weeks.

Beginning in Hansford County on the thirteenth Monday after the first Monday in January of each year and may continue in session two weeks; and also beginning in Hansford County on the ninth Monday after the last Monday in August of each year and may continue in session two weeks.

Beginning in Ochiltree County on the fifteenth Monday after the first Monday in January of each year and may continue in session three weeks; and also beginning in Ochiltree County on the eleventh Monday after the last Monday in August of each year and may continue in session three weeks.

Beginning in Hemphill County on the eighteenth Monday after the first Monday in January of each year and may continue in session four weeks; and also beginning in Hemphill County on the fourteenth Monday after the last Monday in August of each year and may continue in session four weeks. [As amended Acts 1937, 45th Leg., S.B. #486.]

Amendment of 1937 effective May 18, 1937.

Section 2 of the amendatory act 1937 read as follows:

"Sec. 2. That all processes, writs and bonds issued, served or executed prior to the taking effect of this Act and returnable to the terms of said Court in each of said Counties comprising the 84th Judicial District, and also process heretofore returnable, as well as all bonds and recognizances heretofore entered into in any of said Courts in said Judicial District, shall be valid and binding.

"All process issued or served before this Act goes into effect to the District Court of any of said Counties shall be considered as returnable to said Court in accordance with the terms prescribed by this Act, and also such process is hereby legalized and all grand and petit jurors

drawn and selected under existing laws in any of the Counties of said Judicial District for a term of Court after this Act becomes effective, shall be considered lawfully drawn and selected for the next term of the District Court for these prescribed Counties, held in accordance with this Act; provided, however, that if there should be a term of Court being held at the time this Act goes into effect, said term of Court shall remain and continue in session until said term is ended and terminated under the law as it exists prior to the time this Act takes effect."

Section 3 repeals all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

102. — Bowie and Red River.

The 102nd Judicial District of Texas shall be composed of the counties of Bowie and Red River; and the terms of the District Courts within said counties shall be held therein as follows:

In Red River County beginning on the first (1st) Monday in January and may continue in session for six (6) weeks; on the fourteenth (14th) Monday after the first (1st) Monday in January and may continue in session six (6) weeks; on the thirtieth (30th) Monday after the first (1st) Monday in January and may continue in session six (6) weeks; on the forty-second (42nd) Monday after the first (1st) Monday in January and may continue in session six (6) weeks.

In Bowie County beginning on the sixth (6th) Monday after the first (1st) Monday in January and may continue in session eight (8) weeks; on the twentieth (20th) Monday after the first (1st) Monday in January and may continue in session ten (10) weeks; on the thirty-sixth (36th) Monday after the first (1st) Monday in January and may continue in session six (6) weeks; on the forty-eighth (48th) Monday after the first (1st) Monday in January and may continue in session four (4) weeks.

The Clerk of the District Court in each of the said counties and his successor in office shall be the Clerk of the 102nd Judicial Court in said counties and shall perform all duties pertaining to the Clerkship of said Court.

The District Court of the 102nd Judicial District in Bowie and Red River Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law.

Said 102nd District Court shall also have concurrent jurisdiction in Bowie County with the 5th Judicial District Court, and all causes of action of a civil nature pending in either Court in said county shall, at the end of each term of such Court in which the same is pending, be transferred by operation of law to the other Court, except where the next succeeding term of the 5th District Court will convene before the next term of the 102nd District Court in said county; and said Courts, and the Judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective Courts to the other District Court in said county by an order entered upon the minutes of their respective Courts.

All process issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed respectively as though issued and served for such terms and Courts and returnable to and drawn for the same.

The Judge and all district officers of the 102nd Judicial District as heretofore constituted shall be the Judge and district officers of the 102nd Judicial District as constituted and reorganized by this section during the terms for which they each respectively were elected. [As amended Acts 1937, 45th Leg., S.B. #430, § 1.]

Effective April 10, 1937.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of laws; Section 3 declared an emergency and provided that the act should take effect from and after its passage.

Changing jurisdiction of county court affecting district court of Red River County, see article 1970—314.

119.—Coleman, Concho, Runnels and Tom Green.

The 119th Judicial District of Texas, comprised of the Counties of Coleman, Concho, Runnels and Tom Green, shall hold terms of court in said Counties as follows, to-wit:

Coleman County: A term to begin on the first Monday in January of each year and may continue in session five weeks.

A term to begin on the twenty-first Monday after the first Monday in January of each year and may continue in session five weeks.

Concho County: A term to begin on the first Monday in September of each year and may continue in session three weeks.

A term to begin on the fifth Monday after the first Monday in January of each year and may continue in session three weeks.

Runnels County: A term to begin on the tenth Monday after the first Monday in September of each year and may continue in session five weeks.

A term to begin on the sixteenth Monday after the first Monday in January of each year and may continue in session five weeks.

Tom Green County: A term to begin on the third Monday after the first Monday in September of each year and may continue in session seven weeks.

A term to begin on the eighth Monday after the first Monday in January of each year and may continue in session eight weeks. [Acts 1937, 45th Leg., S.B. #496, § 1.]

Effective Aug. 1, 1937.

The title to Acts 1937, 45th Leg. S.B. #496, purported to amend Acts 1931, 42nd Leg., ch. 367, p. 864, as amended by Acts 1933, 43rd Leg., 1st C.S., ch. 24, p. 78, but the body of the Act did not amend the prior acts and made no reference thereto.

Section 2-5 of Acts 1937, 45th Leg., S.B. #496, read as follows:

"Sec. 2. All process and writs issued out of and all bonds and recognizances made and entered into and all grand and petit jurors drawn before this Act shall take effect, shall be held valid and returnable to the next succeeding terms of the District Court in and for the several Counties hereinabove specified as herein fixed, the same as though issued and served for such term and the same as if made returnable and drawn for the terms herein fixed and all such process, writs, bonds and recognizances issued or taken before this Act takes effect in the District Court of the several Counties affected by this Act, shall be held valid as though no change had been made in the time of holding courts in the District herein affected, and all parties shall take notice of the change in the terms of the

court and shall answer in response to all writs and process to the terms of court as herein specified the same as if said writs and process, bonds and recognizances had been executed, issued or entered into after the taking effect of this Act.

"Sec. 3. This Act shall not become effective until August 1, 1937, at which time it shall become effective and be in full force and effect, and thereafter the terms of court in the several Counties constituting said Judicial District shall be holden as herein provided.

"Sec. 4. All laws and parts of laws in conflict herewith are hereby in all things repealed.

"Sec. 5. Nothing herein contained shall be construed as changing or affecting the terms of court to be held in the several Counties comprising said District between the date of the passage of this Act and the date it shall become final and in full force and effect as hereinabove provided."

Section 6 declared an emergency and provided that the Act should take effect from and after August 1, 1937.

124.—Gregg, and Special District Court for Gregg County.

Sec. 8. Said Special District Court of Gregg County, Texas, created by this Act, shall automatically cease to exist on the 25th day of January, 1943, and all terms and provisions thereof shall be and become of no further force and effect upon said date. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #82, § 1.]

Effective 90 days after Oct. 26, 1937, date of adjournment.

Section 2 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

Sec. 22. (a) Said Criminal District Attorney is hereby authorized to appoint at his discretion a First Assistant Criminal District Attorney who

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

shall receive a salary of Thirty-Six Hundred Dollars (\$3600) per annum, and said Criminal District Attorney is hereby authorized to appoint at his discretion a Second Assistant Criminal District Attorney who shall receive a salary of Three Thousand Dollars (\$3,000) per annum, and the salaries of said Assistant Criminal District Attorneys shall be paid out of the General Fund of the County in twelve (12) equal monthly installments by warrants drawn on said Fund. Such Assistant Criminal District Attorneys shall take the Constitutional Oath of office and be authorized to represent the State in all of the Courts of the County in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and such Assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said Assistants shall be and are hereby authorized to administer oaths, file informations, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney, and to exercise any power conferred by law upon the County and District Attorneys, and the Criminal District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his Assistants as he would be entitled to receive if the services had been rendered by himself.

(b) Providing further that the Criminal District Attorney is hereby authorized when in his judgment the efficient conduct of his office so requires to appoint a criminal investigator who shall receive a salary of Three Thousand Dollars (\$3,000) per year. Such Criminal District Attorney may, also, if in his judgment the efficient conduct of his office so requires, appoint a stenographer for said office who shall receive a salary of Eighteen Hundred Dollars (\$1800) per year. The salary of such investigator and stenographer shall be paid out of the General Fund of the County in which they are appointed in twelve (12) equal installments, upon the certificate of the Criminal District Attorney by warrants drawn on said fund. [As amended Acts 1937, 45th Leg., H.B. #1026, § 1.]

Amendment of 1937, effective May 13, 1937.

Section 2 of the amendatory act of 1937, provides that: "The provisions of this Act shall in no wise alter, change, amend, or repeal the provisions of House Bill No. 157, passed at the Regular Session of the Forty-fifth Legislature, 1937 [Art. 326k—

8], but the provisions of said House Bill No. 157 shall remain in full force and effect."

Section 3 repeals all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 10A—ARCHITECTS [NEW]

Art.

249a. Architects to register.

Art. 249a. Architects to register

Section 1. That in order to safeguard life, health, and property, and the public welfare, and in order to protect the public against the irresponsible practice of the profession of architecture by properly defining and regulating the practice of architecture, no person shall practice architecture, as herein defined, within this State, after ninety (90) days after the appointment and qualification of the members of the Board of Architectural Examiners hereinafter created, unless he be a registered architect, as provided by this Act.

Board of Architectural Examiners created; qualification; term of office; vacancies

Sec. 2. A Board of Architectural Examiners is hereby created, to be composed of three members, each of whom shall have engaged in the practice of architecture for a period of five (5) years or more, to be appointed by the Governor of this State within thirty (30) days after this Act becomes effective, and said appointment shall be approved by a two-thirds vote of the Senate. One member of said Board shall hold office for the period of two (2) years from and after his or her appointment. One of the members of said Board shall hold office for the period of four (4) years from and after his or her appointment. One member of said Board shall hold office for the period of six (6) years from and after his or her appointment. Each of the members of said Board shall retain his or her office until his or her successor is duly appointed and qualified. The Governor of this State shall appoint a successor to each person whose term of office shall expire, and such appointment shall be approved by a two-thirds vote of the Senate, and such person so appointed shall hold office for the period of six (6) years from and after his or her appointment, and he or she shall be a registered architect, and have such other qualifications as provided by this Act. The person so appointed shall be a resident citizen of and legal voter of this State and shall have engaged in the practice of architecture for a period of ten (10) years or more. All vacancies occurring in the membership of said Board shall be filled by appointment by the Governor of this State for the unexpired term of such membership, and such appointments shall be approved by a two-thirds vote of the Senate.

Not more than one member of said Board shall be a stockholder or owner of any interest in, nor be a member of the faculty, or board of trustees, or other governing board of, nor be an officer of, any school or college which teaches architecture.

A member of said Board shall not be disqualified for nor prohibited from performing any work or rendering any service on any State, county, municipal, or other public building or work for a fee or other direct compensation because of membership on said Board.

Oath; organization of Board; Board of Secretary-treasurer; powers and duties; rules and regulations

Sec. 3. The members of the Board of Architectural Examiners shall, before entering upon the discharge of their duties, qualify, by subscribing to, before a notary public or other officer authorized by law to administer oaths, and filing with the Secretary of State, the Constitutional oath of office. They shall, as soon as organized, and biennially thereaft-

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er in the month of January, elect from their number, a chairman, vice-chairman, and secretary-treasurer. The Secretary-treasurer, before entering upon his duties, shall file a bond with the Secretary of State for such sum as will be twice the amount of cash on hand at the time the bond is filed; provided, however, that the amount of said bond shall, in no case, be less than Five Thousand Dollars (\$5,000). Said bond shall be payable to the Governor of this State, for the benefit of said Board; shall be conditioned upon the faithful performance of the duties of such officer, and shall be in such form as may be approved by the Attorney General of this State; and shall be executed by a surety company, as surety, and be approved by the Board of Architectural Examiners.

The Board shall adopt all reasonable or necessary rules, regulations, and bylaws to govern its proceedings and activities, not inconsistent with this Act, the laws of this State, or of the United States, which it may deem advisable. The Board shall adopt a seal, which shall be used on official documents. The design of the seal shall be similar to the seal of other departments of the State, in that it shall contain the five-pointed star with a circular border, and within the border, shall contain the words, "Texas Board of Architectural Examiners." The Secretary-treasurer of the Board shall keep a correct record of all the proceedings of the Board, and of all moneys received or expended by the Board, which record shall be open to public inspection at all reasonable times. The records shall include a record of proceedings relating to examination of applicants, and the issuance, renewal, or refusal of certificates of registration; and they shall also contain the name, known place of residence, and the date and serial number of the registration certificate of every registered architect entitled to practice his or her profession in this State, and a record of all renewals of such certificates. The records shall be kept by the Secretary-treasurer of the Board, and such records shall be audited biennially during the month of January by a certified public accountant, a report of the findings of such audit shall be made to the Governor of this State, and a copy of said report shall be delivered to the Secretary-treasurer of the Board, who shall retain same as a permanent record of the office.

The Board shall cause the prosecution of all persons violating any of the provisions of this Act, and may incur the expense reasonably necessary in that behalf.

Fees, disposition of; salaries and expenses; Architects' Registration Fund

Sec. 4. All fees which are provided to be charged by virtue of this Act shall be deposited in the State Treasury, to the credit of a fund to be known as "Architects Registration Fund," and an appropriation from said Fund, in an amount not to exceed Four Thousand Dollars (\$4,000) per year, and in no case more than the amount on hand in said Fund, is hereby made and authorized to pay all salaries, compensations, and other expenses of said Board, or incurred by said Board in the discharge of their duties. Said salaries, compensations, and other expenses shall be paid by drafts for the proper amounts drawn upon said Fund and signed by the Secretary-treasurer and countersigned by the Chairman of said Board.

If, at any time when the books and records of the Board are audited, as provided for in Section 3 of this Act, it is found that there is more than Five Thousand Dollars (\$5,000) on hand in the hereinabove named Architects Registration Fund, and in the hands of the Board, then all money over and above that total amount, Five Thousand Dollars (\$5,000), shall be permanently diverted to the General Revenue Fund of this State.

The Secretary-treasurer of the Board shall receive such monthly compensation for his or her services as shall be determined by the Board,

by resolution adopted at a regular meeting of said Board, but in no case shall such compensation exceed One Thousand, Eight Hundred Dollars (\$1,800) per year, exclusive of allowable expenses of office. The other members of the Board shall each receive as compensation for their services, in addition to their necessary expenses, the sum of Ten Dollars (\$10) for each and every day actually spent by them in going to, attending, and returning from regular and special meetings of said Board, and in conducting examinations of applicants for registration certificates as provided for by this Act, and in prosecuting violations of this Act, but in no case shall the compensation to any one member of the Board, other than the Secretary-treasurer of the Board, exceed Three Hundred Dollars (\$300) per year, exclusive of allowable expenses.

Quorum; meetings; rules and regulations

Sec. 5. Two members of the Board shall constitute a quorum. Regular meetings of the Board shall be held at such times as the Board may fix and determine. Special meetings of the Board shall be called by the Chairman, or in his absence from the State, or inability to act, by the vice-chairman of the Board. Notice of the time and place of all meetings shall be given in writing to each member of the Board by the mailing of such notices to him or her, at his or her last known address, at least ten (10) days prior to the time of such meeting. Such notice shall be given by the Secretary-treasurer, or by the officer calling the meeting.

The Board shall adopt rules and regulations for the examination and registration of applicants to practice architecture in accordance with the provisions of this Act, and may amend, modify, and repeal such rules and regulations from time to time. The Board shall, within fifteen (15) days after the election of officers thereof, and upon the adoption, modification, or repeal of its rules, regulations, or bylaws governing proceedings, or its rules and regulations for examination of applicants for registration certificates, file with the Secretary of State, and publish in one daily newspaper of general circulation within the State and published in this State, and in an architectural journal published in the State, and if there be none, then in a second daily newspaper published in the State in a city different from that in which the other newspaper is published, at least twice, the name and address of each officer of the Board, and a copy of such rules, regulations, or bylaws, or the amendments, modifications, or repeals thereof.

Examinations; qualifications of applicants for registration

Sec. 6. Provision shall be made by the Board of Architectural Examiners for holding examinations of applicants for registration under this Act, at such place or places as may be determined by the Board, at least twice each year, if there be applicants. Any person of good moral character, over twenty-one years of age, upon payment of a fee of Five Dollars (\$5) to the Secretary-treasurer of the Board, shall be entitled to enter the examination to determine his or her qualifications. All examinations shall be governed and directed by said Board, or by a committee of two of its members delegated by the Board, and due notice of the time, scope of examination, and place of holding such examination shall be published, as in the case provided for the publication of rules and regulations of the Board. The examination shall cover those subjects to be determined and prescribed by the Board; the knowledge of which is necessary in the proper practice of architecture.

Certificate; fee; registration of certificate; application to practicing architects; copartnerships

Sec. 7. If the result of the examination of an applicant shall be satisfactory to a majority of the Board, under its rules, the Secretary-treasurer shall, upon an order from the Board, issue to the applicant a certificate to that effect and upon payment to the Secretary-treasurer of the Board by the applicant of a fee of Twenty-five Dollars (\$25), he shall thereupon issue, and cause to be recorded in the office of the Secretary of State and delivered to the person therein named, a registration certificate bearing a serial number authorizing him or her, subject to the provisions of this Act, to practice the profession of architecture in this State for a period of one year from the date of such certificate; provided, however, that same may be renewed from year to year in accordance with the provisions of this Act as set forth in Section 13.

Any person of good moral character who shall, at the time that this Act becomes effective, be practicing architecture in this State as his or her principal vocation, and who was engaged in the practice of architecture for a period of at least six (6) months prior to the passage of this Act, and who shall present to the Board an affidavit to that effect, shall be entitled to receive such certificate without examination, and upon payment to the Secretary-treasurer of the Board of a fee of Twenty-five Dollars (\$25), the Secretary-treasurer of the Board shall issue a registration certificate as above required to each such person having complied with the provisions of this Act; provided, however, that the Board may, in its discretion, require further evidence than the affidavit hereinabove provided for, that the applicant was actually engaged in the practice of architecture at the time that this Act became effective and for six (6) months prior thereto. Such practicing architects shall be required to file their application for registration under this Act within ninety (90) days after the appointment and qualification of the members of the Board of Architectural Examiners.

Coincident with its issue, the Board shall cause each registration certificate issued by it to be recorded in the office of the Secretary of State. For the purpose of recording such certificates, the Secretary of State shall keep a book, or books, of suitable size and character, to be known as the "Register of Architects" and shall record each such certificate on a separate page of said book, together with the date same was filed for record, and the residence of the certificate holder at the time of filing same for record.

In the case of copartnership of architects, each partner must be registered to practice architecture. No firm or partnership shall be registered to practice architecture, but may practice as such provided each member of such firm or partnership is a registered architect in accordance with the provisions of this Act.

Practicing architects from other states; fees

Sec. 8. An architect of good moral character who has lawfully practiced architecture for a period of ten (10) years or more outside this State, or partly within and partly without this State, may be required at the discretion of the Board, in order to obtain a registration certificate to practice architecture in this State, to take only a practical examination the nature of which shall be prescribed by the Board of Architectural Examiners, provided that, as a condition precedent to the issuance of a registration certificate to such applicant, the Board may require him or her to furnish and file evidence satisfactory to the Board that he or she has not been restrained from practicing architecture in any other State or jurisdiction on account of negligence, incompetency,

recklessness, dishonesty, or other causes to be grounds for the revocation of a registration certificate in this State, or that no registration certificate or other license, or permit to practice architecture, theretofore issued to him or her has ever been so revoked, and upon failure of the applicant to furnish and file such satisfactory evidence, the Board may, in its discretion, refuse to issue a registration certificate to him or her authorizing him or her to practice architecture in this State.

An architect who has legally practiced architecture in another State of the United States, or country outside the border of the United States, where the qualifications prescribed by law were, at the time he or she practiced in that State or country, substantially equal to those prescribed in this State at the date of his or her application, may obtain a registration certificate to practice architecture in this State merely by furnishing evidence satisfactory to the Board of the fact that he or she has so lawfully practiced in such other State or country; provided that the laws or legal regulations of that State or country extend like or similar privilege to registered architects of this State applying for the right to practice architecture in such other State or country.

The fee to be paid by an architect of another State or country, applying for his or her original registration certificate to practice architecture in this State, shall be the sum of Thirty Dollars (\$30).

Exemption from examinations; fee

Sec. 9. Any person of good moral character making application for a registration certificate to practice architecture in this State who presents to the Board a diploma of graduation or satisfactory certificate from an architectural school or college, certifying that he or she has completed a technical course approved by the Board of Architectural Examiners, together with evidence of at least three (3) years satisfactory experience, subsequent thereto, in the office or offices of a reputable architect or architects, shall be entitled to a registration certificate as provided for by this Act, without being required to stand an examination therefor. The Board shall publish a list of approved schools, and any addition, eliminations, or changes therein, from time to time, as changes occur.

The fee to be paid by an applicant for a registration certificate, under this Section of this Act, shall be the sum of Twenty-five Dollars (\$25).

Seal to be used by architect

Sec. 10. Every registered architect shall obtain and keep a seal, such as is authorized, prescribed, and approved by the Board of Architectural Examiners, with which he or she shall stamp all drawings or specifications issued from his or her office for use in this State. The design of the seal shall be the same as that to be used by the Board of Architectural Examiners as provided for in Section 3 of this Act, except that it shall bear the words "Registered Architect, State of Texas," instead of "Texas Board of Architectural Examiners."

Practicing architecture; registration certificates, necessity of; exceptions

Sec. 11. Any person, or firm, who for a fee or other direct compensation therefor, shall engage in the planning, or designing, or supervising the construction of buildings to be erected or altered in this State, by or for other persons than themselves, as a profession or business, and shall represent or advertise themselves as architects, architectural designers, or other title of profession or business using some form of the word "architect," shall be considered as practicing the profession of architecture in this State, and shall be required to comply with the pro-

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visions of this Act; and no person or firm shall engage in or conduct the practice of architecture as aforesaid in this State unless a registration certificate or certificates therefor have been duly issued to such person or the members of such firm as provided for by this Act, and no firm or partnership shall engage in, or conduct, the practice of architecture as aforesaid within this State except by and through persons to whom registration certificates have been duly issued, and which certificates are in full effect; but nothing in this Act shall prevent draftsmen, students, clerks of works, superintendents, or other employees or assistants of those legally practicing architecture under registration certificates as herein provided for, from acting under the instruction, control, or supervision of such registered architects.

Nothing in this Act shall prevent qualified professional engineers from planning and supervising work, such as railroads, hydro-electric work, industrial plants, or other construction primarily intended for engineering use or structures incidental thereto, nor prevent said engineers from planning, designing, or supervising the structural features of any building, but such engineers shall not employ the title "architect" in any way, nor represent themselves as such, nor shall any engineer practice the profession of architecture as defined herein, unless he or she be registered as an architect under the provisions of this Act.

Revocation or cancellation of certificates

Sec. 12. Registration certificates of architects issued in accordance with this Act, shall remain in full force and effect until expiration date unless revoked for cause as herein provided.

The registration certificate and right of any person to practice architecture in this State may be revoked and cancelled by any District Court of this State, in a suit by the State upon the relation of the Board of Architectural Examiners, upon the proof of the violation of the law in any respect in regard thereto, or for any cause for which the Board of Architectural Examiners is authorized to refuse to grant registration certificates, or for proof of gross incompetency, or for recklessness in the construction of buildings on the part of the architect designing, planning, or supervising the construction or alteration of same, or for dishonest practice on the part of the holder of such registration certificate; and when requested by the Board, the several District and County Attorneys of this State shall have the authority, and it shall be their duty, to file and prosecute appropriate judicial proceedings in the name of the State against such persons. The venue of each suit shall be in the county of the residence of the holder of such registration certificate.

Annual fee; certificate of renewal; failure to obtain renewal; notice of revocation

Sec. 13. Every registered architect in this State who desires to continue the practice of his or her profession shall annually, during the time he or she shall continue in such practice, pay the Secretary-treasurer of the Board during the month of July, a fee of Ten Dollars (\$10), and the Secretary-treasurer shall thereupon issue to such registered architect, and file for record with the Secretary of State, a certificate of renewal of his or her registration certificate for the term of one year. In the case of those persons paying their first renewal fee after the expiration of their original registration certificate, such fee shall be due in the month of July first succeeding the expiration date of the original registration certificate issued to such person, and such certificate shall remain in force until the end of such month. Any registered architect who shall fail to have his or her registration certificate renewed during the month

of July of each and every year shall have his or her registration certificate revoked; and it shall be the duty of the Secretary-treasurer of the Board to give notice of such revocation to the Secretary of State, whereupon the Secretary of State shall make an entry of such revocation accordingly upon the page of the Register of Architects containing the record of the registration certificate which is revoked. But the failure to renew such registration certificate in the time stated shall not deprive such architect of the right of renewal thereafter; but the fee to be paid upon the renewal of a registration certificate after the month of July and before the first of January of the year following shall be Fifteen Dollars (\$15) to cover the additional expense incurred by the Board in effecting the renewal; and, in the event that the renewal is not made before the first day of January of the year following, the applicant shall be required to take and satisfactorily pass such examination as may be prescribed by the Board, and if the applicant passes such examination successfully, the fee to be paid upon the renewal of the registration certificate shall be, in such case, the sum of Thirty Dollars (\$30).

Report of proceedings of Board

Sec. 14. Immediately after the organization of the Board, and annually thereafter, the Secretary-treasurer of the Board shall file with the Secretary of State a full report of the proceedings of the Board during the preceding year, subscribed by the Chairman and Secretary-treasurer of the Board, and attested by the seal of the Board of Architectural Examiners.

Penalty

Sec. 15. If any person, or firm, shall, for a fee or other direct compensation, pursue the practice of the profession of architecture in this State as herein defined, or shall engage in this State in the profession or business of planning, or designing, or supervising the construction of buildings to be erected or altered by or for other persons than himself, herself, or themselves, and shall advertise, or put out any sign, card, or drawings in this State designating himself, herself, or themselves as an architect, architectural designer, or other title of profession or business using some form of the word "architect" without first having complied with the provisions of this Act, such person, or the members of such firm, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25), and not more than Two Hundred Dollars (\$200), for each offense; and each and every day of violation of this Act as above set forth, shall constitute a separate offense.

Exceptions from act

Sec. 16. This Act shall not apply:

1. To the practice of architecture solely as an officer or employee of the United States, but persons so engaged or employed shall not engage in the private practice of architecture in this State without first having a registration certificate as herein provided.

2. To legally qualified architects residing in another State or country outside the border of the United States, who do not maintain nor open offices in this State, provided that such architects, when undertaking or conducting the practice of architecture as herein set forth in this State, shall employ a registered architect of this State as a consultant, or shall act as a consultant of a registered architect in this State.

3. To any person, or firm, who prepares plans and specifications for the erection or alteration of a building, or supervises the erection or alteration of a building by or for other persons than himself, herself, or themselves, but does not in any manner represent himself, herself, or

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themselves to be an architect, architectural designer, or other title of profession or business using some form of the word "architect." [Acts 1937, 45th Leg., H.B. #144.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 17 of Acts 1937, 45th Leg., H. B. #144, reads as follows: "If for any reason any section or part of this Act shall be held by the Courts to be unconstitutional, or invalid, that fact shall not invalidate any other part of this Act, but the same shall be enforced without reference to the part or parts, if any, which shall be so held to be invalid, unless the entire Act shall be held to be invalid."

Section 18 repeals all conflicting laws and parts of laws. Section 19 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to correct malpractice in the building construction industry by safeguarding the public against the irresponsible practice of the profession of architecture; defining and regulating the practice of architecture; creating a Board of Architectural Examiners; providing for appointment of the Board; fixing the terms of office; providing for appointment of their successors and for filling vacancies; fixing the qualifications of the members of said Board; requiring each member to take the oath of office and file same with the Secretary of State; providing for the election of various officers of said Board; requiring the bonding of the Secretary-treasurer; providing for the adoption of necessary rules, regulations, and by-laws of said Board to govern its proceedings and activities; prescribing the duties of the various members of said Board; providing for fees collected by said Board to be deposited in a special Fund in the State Treasury; providing for an appropriation from said Fund to pay salaries; compensations, and other expenses of said Board; providing certain excess funds to be diverted to the General Revenue Fund of the State; providing salary of the Secretary-treasurer and certain compensation to other members of said Board;

providing for special meetings of said Board; requiring the adoption of rules and regulations by said Board for the examination and registration of applicants to practice architecture; fixing the fee therefor; providing for the issuance of certificates to applicants in certain cases without examination and fixing the fee therefor; setting forth who shall be a registered architect in copartnerships or firms; providing for the publishing by the Board, from time to time, of the list of approved schools; requiring every registered architect to have and use a seal on drawings and specifications; defining what persons are regarded as architects within the meaning of this Act; providing for the revocation and cancellation of registration certificates in certain cases; providing for the annual renewal of registration certificates issued under the provisions of this Act; providing for the reinstatement of registration certificates in certain cases; providing for the filing of a report of the proceedings of said Board in the office of the Secretary of State; providing penalties for pursuing the practice of architecture without having a registration certificate in accordance with this Act, or for violating the provisions of this Act; exempting practice of architecture by persons acting solely as officers or employees of the United States from the provisions of this Act; exempting from the provisions of this Act qualified architects residing outside this State, who have no office in this State, provided such architects, when performing architectural work in this State work with a registered architect of this State as a consultant, or act as a consultant to such an architect; providing for certain other things incidental to various portions of this Act; providing against any invalid part of this Act invalidating the remainder thereof or any part thereof; repealing all laws in conflict with this Act; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #144.]

TITLE 14—ATTORNEYS AT LAW

Art. 307. [Repealed by Acts 1935, 44th Leg., p. 438, ch. 176, § 1, effective July 1, 1937.]

Section 2 of Acts 1935, 44th Leg., p. 438, ch. 176, as amended by Acts 1937, 45th Leg. H.B. #710, reads as follows:

"Section 2. This Act shall not go into effect until July 1, 1937, nor shall it be construed to apply to those students who were enrolled in approved law schools

within Article 307, Revised Civil Statutes of Texas, 1925, on October 1, 1934, provided such students graduate from the schools they were originally enrolled in on or prior to September 1, 1938."

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

<p>1. DISTRICT ATTORNEYS</p> <p>Art. 326k—8. Assistant district attorney for collection of delinquent taxes in</p>	<p>counties of less than 25,000 [New].</p> <p>326k—9. Criminal district attorneys in counties of 70,001 to 70,100 and 30,900 to 30,950 [New].</p>
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1. DISTRICT ATTORNEYS

Art. 326k—8. Assistant district attorney for collection of delinquent taxes in counties of less than 25,000

In any county in this State having a population less than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, and having a tax valuation exceeding Seventy-five Million Dollars (\$75,000,000), according to the last tax roll which has been approved as required by law, the District Attorney or Criminal District Attorney in said county is hereby authorized to appoint, in addition to the other assistants allowed by law, a Special Assistant District Attorney or Assistant Criminal District Attorney, whose powers and duties shall be the same as those of other Assistant District Attorneys or other Assistant Criminal District Attorneys, and in addition whose special duty shall be to assist said District Attorney or Criminal District Attorney in all civil matters arising in and connected with the efficient conduct of said office, including the investigation of all records, preparation of and filing of suits for the collection of all delinquent taxes of whatever kind or character due such county. Such Special Assistant District Attorney or Special Assistant Criminal District Attorney shall be paid the sum of Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) monthly installments, out of the General Fund of said county by warrant drawn upon such a Fund. Said salary shall be payable as herein provided when said District Attorney or Criminal District Attorney shall certify to the Judge of the County Court in such a county that any or all services enumerated herein have been performed and were necessary to the proper and efficient conduct of said office. [Acts 1937, 45th Leg., H. B. # 157, § 1.]

Effective March 15, 1937.

Title of Act:

An Act providing that in counties in this State having a population less than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, and tax valuation exceeding Seventy-five Million Dollars (\$75,000,000), according to the last approved tax roll of said county, that the District Attorney or Criminal District Attorney in such a county is authorized to appoint a Special Assistant District Attorney or Special Assistant Criminal District Attorney; prescribing the powers and duties, both general and

special, of said Assistant District Attorneys or Assistant Criminal District Attorneys; providing the amounts to be paid the said Assistant District Attorneys or Assistant Criminal District Attorneys as salaries; providing that said assistant District Attorneys or Assistant Criminal District Attorneys shall be paid by warrants drawn upon the General Fund of such a county on certificate made by said District Attorney or Criminal District Attorney to the County Judge thereof, and declaring an emergency. [Acts 1937, 45th Leg., H. B. # 157.]

Art. 326k—9. Criminal district attorneys in counties of 70,001 to 70,100 and 30,900 to 30,950

Section 1. In those counties in this State having a population of not less than seventy-five thousand and one (75,001), and not more than seventy-seven thousand, one hundred (77,100) inhabitants, and not containing a city of more than forty thousand (40,000) inhabitants, as determined by the last preceding Federal Census, and in which counties there are one or more Judicial Districts, and in counties of this State

having a population of not less than thirty thousand, nine hundred (30,900), and not more than thirty thousand, nine hundred and fifty (30,950) inhabitants, as determined by the last preceding Federal Census, and in which the County Attorney performs the duties of County Attorney and District Attorney, and in which there is not now a District Attorney, the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys. And it is further provided and directed that the person who is the present County Attorney of any such county shall continue in office and take the oath and give the bond required by the Constitution and Laws for other District Attorneys, and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the affairs of the office of Criminal District Attorney of such county, and appoint assistants as provided in this Act. Provided further, that the present County Attorneys in such counties shall continue to hold the office created by this Act, for a period in no event less than the time such officer would have held his office as County Attorney had this Act not been passed. A Criminal District Attorney shall be elected in each such county at the General Election of the year immediately preceding the termination of the term of the Criminal District Attorney provided for such counties in this Act. Thereafter, a Criminal District Attorney in such counties shall be regularly elected as provided by law.

Sec. 2. The Criminal District Attorney of any such county shall have and exercise all such powers, duties, and privileges within such county as are by law now conferred, or which may hereafter be conferred upon District and County Attorneys, and such Criminal District Attorney shall act as and perform the duties of District Attorney for all Judicial Districts in such counties, and shall act as and perform the duties of County Attorney for all County Courts of such counties.

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same salary allowed other Criminal District Attorneys, as provided in Section 13 of Chapter 465,¹ Acts of the Forty-fourth Legislature, Second Called Session, or as may hereafter be provided by law.

Deputies, assistants, and clerks shall be hired by the Criminal District Attorney in such counties, and their compensation shall be fixed as provided by Subsection 4 of Section 14, Chapter 465,² Acts of the Forty-fourth Legislature, Second Called Session, or as may hereafter be provided by law.

Sec. 4. The provisions of Chapter 465³ of the Acts of the Forty-fourth Legislature, Second Called Session, shall apply to and govern the offices of Criminal District Attorney created by this Act to the same extent and in the same manner that such Chapter would have applied had such offices been created prior to the passage of said Act.

Sec. 5. It is not the intention of this Act to create any office of District Attorney, nor any other Constitutional office, and the office of Criminal District Attorney is hereby declared to be a separate and distinct office from the Constitutional office of District Attorney, and no Criminal District Attorney shall draw or be entitled to any salary whatsoever from the State of Texas.

Sec. 6. This Act is not intended and shall not be considered or construed as repealing any law now in the Statute Books, except those in conflict herewith, but shall be cumulative thereof. [Acts 1937, 45th Leg., H.B. #593.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Effective April 6, 1937.

1 Article 3912e.

2 Article 3902.

3 Articles 3912e, 3896-3899, 3901, 3902.

Section 7 of this Act declared an emergency making the act effective on and after its passage.

Title of act:

An Act creating the office of Criminal District Attorney in all counties having a population of not less than seventy-five thousand and one (75,001) nor more than seventy-seven thousand, one hundred (77,100), and not containing a city of more than forty thousand (40,000) inhabitants, as determined by the last preceding Federal Census, and in which counties there are one or more Judicial Districts, and in counties of this State having a population of not less than thirty thousand, nine hundred (30,900), and not more than thirty thousand, nine hundred and fifty (30,950) inhabitants, as determined by the last preceding Federal Census, and in which the County Attorney performs the duties

of County Attorney and District Attorney, and in which there is not now a District Attorney; providing that the present County Attorney in those counties shall qualify as Criminal District Attorney, remaining in office for the period such officer would have held his office as County Attorney had this Act not been passed; providing that such officer shall take the oath and give the bond required of District Attorneys by the Constitution and Laws of this State; provided that such Criminal District Attorney shall have and exercise all powers, duties, and privileges within such county as are by law conferred, or which may hereafter be conferred upon District and County Attorneys, and providing the compensation for such officer; providing for the appointment of assistants, deputies, and clerks; fixing their powers, duties, and compensation; providing for the election of a Criminal District Attorney in each such county; providing this Act shall be cumulative of all other laws, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #593.]

TITLE 16—BANKS AND BANKING

CHAPTER TWO—INCORPORATION

Art. 380. Board to investigate

The Board shall carefully examine the articles of association and said Board shall inform itself as to the public necessity of the business of the community in which it is sought to establish the same, and to determine whether its capital is commensurate with the requirements of law, and the location of the business, and that the applicants are acting in good faith. [As amended Acts 1937, 45th Leg., S.B. #158, § 3.]

The amendment of 1937 became effective 45th Legislature. The constitutional amendment was adopted at an election on 16, § 16, as proposed by S.J.R. No. 9 of the Aug. 23, 1937. See note to art. 535.

CHAPTER THREE—BANKS

Art. 392. [376] Powers of corporation

Banking Corporations shall be authorized to conduct the business of receiving money on deposit, allowing interest thereon, and of buying and selling exchange, gold and silver coins of all kinds; of lending money upon real estate and personal property and upon collateral and personal securities at a rate of interest not exceeding that allowed by law; of buying and selling certificates, securities, and shares insured by the Federal Savings and Loan Insurance Corporation; and of buying, selling, and discounting negotiable and non-negotiable commercial paper of all kinds. No such bank shall lend more than fifty (50) per cent of its securities upon real estate, nor make a loan on real estate to an amount greater than half the reasonable cash value thereof; provided that the restrictions as to the amount a bank may invest in securities upon real estate and as to the value of such real estate as compared to the security of the loan shall not apply to mortgage loans which are insured by the Federal Housing Administrator. [As amended, Acts 1937, 45th Leg., H. B. #489, § 1.]

Effective 90 days after May 22, 1937, date of adjournment. declared an emergency and provided that the act should take effect from and after its passage.

Section 2 of the amendatory act of 1937

its passage.

CHAPTER FIVE—SAVINGS BANKS

Art. 416. [403-432] Investment of savings

Such corporation shall invest not more than eighty-five (85) per cent of the total amount of its savings deposits in any of the following classes of securities, and not otherwise:

1. In bonds or interest bearing notes or obligations of the United States, or of those for which the faith of the United States is pledged for the payment of principal and interest;

2. In bonds, interest bearing notes, or other obligations issued under due authority of law, in payment for permanent improvements made, bearing a fixed rate of interest, and payable within a definite number of years, or over a series of years, of any city, county, town, or school district, or other subdivision of this State, now organized, or which may hereafter be organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

not defaulted in the payment of any part of either principal or interest thereof within five (5) years previous to making such investments;

3. In the bonds of this State, or of any State in the Union, that has not, within the last five (5) years previous to making such investment, defaulted in the payment of any part of either principal or interest thereof;

4. In first mortgage bonds of any steam or electric railroad, or other public utility corporation, domiciled in this or any other State of the Union, the annual net earnings of which steam or electric railroad, or public utility corporation, equaled during the last five (5) years twice the annual interest charges on the entire funded indebtedness of such steam or electric railroad or public utility corporation. Provided that not more than twenty-five (25) per cent of said savings deposits may be invested in the securities mentioned in this subdivision;

5. In bonds or notes secured by first mortgage, first deed of trust, or other first lien on improved real estate in Texas, provided the aggregate of such bonds or notes outstanding and secured by coordinate lien against said property shall not exceed fifty (50) per cent of the value of said real estate and the improvements thereon, exclusive of mineral leases or other mineral estate, such bonds or notes to run for a term of not longer than ten (10) years, and to be always accompanied by a complete abstract of title to the property mortgaged, and an attorney's certificate approving the title or a title insurance policy in some company incorporated under the laws of Texas guaranteeing the title and guaranteeing that said bonds or notes retain a first lien on the land mortgaged; and in addition thereto in assignable certificates issued by any city, town, or village for street paving, the payments of which are secured by first liens, fixed or executed on the abutting properties in accordance with law, and made the personal obligations of the abutting property owners; provided that the restrictions contained in this Section shall not apply to loans insured by the Federal Housing Administrator;

6. In bankers acceptances as defined by the Federal Reserve Act or in collateral loans, which loans are collateralized and secured by marketable stocks or bonds, the market value of which shall be at all times equal to one hundred and twenty-five (125) per cent of the amount of the loan, such collateral loans always having a maturity of not longer than six months from the date of the purchase thereof. Provided that not more than twenty-five (25) per cent of such savings deposits may be invested in the class of securities mentioned in this Subdivision;

7. In notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator.

It shall be the duty of the Directors of such corporation as soon as practicable, to invest the moneys and funds of such savings accounts, by purchase or otherwise, in the securities hereinabove described. Such Directors, from time to time, shall sell and invest the proceeds of such investments, and for the purpose of meeting current demands and expenses in excess of the receipts, any of the securities may be sold or pledged. [As amended Acts 1937, 45th Leg., H.B. 493, § 1.]

Amendment of 1937, effective April 26, 1937.

Section 2 of the amendatory act of 1937 declared an emergency making the act effective on and after its passage.

CHAPTER SEVEN—BANK DEPOSIT GUARANTY LAW

BOND SECURITY SYSTEM

Art.
489c. Liquidation of Bank Deposit Insurance Company; appeal [New].

GUARANTY FUND PLAN

Art. 455. [Repealed by Acts 1937, 45th Leg., S.B. #158, § 2. See note.]

Repeal became effective on adoption of amendment to Const. art. 16, § 16, as proposed by S.J.R. No. 9 of the 45th Legislature. The constitutional amendment was adopted at an election on Aug. 23, 1937. See note to art. 535.

BOND SECURITY SYSTEM

Art. 489a. [Repealed by Acts 1937, 45th Leg., S.B. #106, § 1.]

Effective April 23, 1937.

Art. 489c. Liquidation of Bank Deposit Insurance Company; appeal

Sec. 2. After the effective date of this Act, the affairs of the Bank Deposit Insurance Company shall be liquidated by the Banking Commissioner of Texas, its debts shall be paid and its remaining assets shall be distributed to those persons lawfully entitled thereto, in accordance with the terms and provisions of said House Bill No. 51,¹ as nearly as may be practicable, aided by the principles and usages of equity when necessary. A complete statement of the plan of such liquidation shall be filed by the Banking Commissioner with a District Court of Travis County, accompanied by the recommendation or prayer of the Commissioner.

Upon the approval of such plan by the Court, if in session, or the Judge thereof, if in vacation, such approval to be entered in the minutes of the Court, notice of such order shall be published by the Clerk of such Court in such manner and for such time as the Court or Judge thereof may order, naming a time when the Court will hear objections thereto. Any person aggrieved by such proposed plan may object thereto in writing, filed within the time allowed by the order of the Court or Judge, and the issue or issues made by such person or persons shall be heard and determined by the Court as an ordinary civil cause, and an appeal or writ of error from the judgment rendered thereon shall lie as in other civil cases.

Sec. 3. Any appeal in such proceeding, when perfected, shall operate as a stay of execution of the judgment and no disbursement of the funds of such company shall be made by the Commissioner until the cause shall have been finally disposed of. Provided all necessary fees, expenses and costs incurred by the Commissioner in the proceeding may be paid by him from such funds at any time, upon the order of the Court or Judge thereof. [Acts 1937, 45th Leg., S.B. #106.]

¹ Article 489a.

Effective April 23, 1937.

Section 4 of this Act declared an emergency, making the act effective on and after its passage.

CHAPTER EIGHT—GENERAL PROVISIONS

Art. 492. State control; depositories of public funds of State and municipalities

All corporations created under this title are hereby declared to be charged with the public use, and shall be under State control and be subject to such legislation as the Legislature may enact for the government and regulation of such banking institutions in this State. Such

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

corporations shall be deemed to be instrumentalities and agencies of the State Government and shall be charged with the duty, when lawfully designated thereto, to act as depositories for the public funds of this State, and of any County, Municipality, City, Town or Village or of any political subdivision within the State, in accordance with the laws of this State governing depositories of public funds now existing or hereafter to exist; and such corporations shall be further charged with the duty to act as fiscal agent for the State, or any County, City, Town or Village, or any subdivision within this State upon request so to do and upon reasonable compensation therefor. The rights, privileges and powers conferred by the terms of this title to corporations taking advantage thereof or incorporating hereunder are to be held subject to the right of the Legislature, to amend, alter or reform the same. Every corporation operating a banking business in Texas under a charter authorized by this State prior to the adoption of the Constitution of 1876, shall be subject to all the provisions of this title. [As amended Acts 1937, 45th Leg., S.B. #245, § 1.]

Effective April 26, 1937.

Section 2 of Act 1937, 45th Leg. S.B. # 245 repeals all conflicting laws and parts

of laws and section 3 declares an emergency making the act effective on and after its passage.

Art. 535. Transfer of shares of stock on corporation books

Shares of stock in any bank, savings bank or bank and trust company organized under the laws of the State of Texas shall be transferable only on the books of the corporation, and it shall be the duty of the officers of the corporation to make such transfer upon the books at the request of the transferer or transferee. [As amended Acts 1937, 45th Leg., S.B. #158, § 1.]

The amendment of 1937 became effective on adoption of amendment to Const. art. 16, § 16, as proposed by S.J.R. No. 9 of the 45th Legislature. The constitutional amendment was adopted at an election on Aug. 23, 1937.

Section 4 of the amendatory Act of 1937 provides: "This Act of amendments of Articles 535 and 380 and of repeal of Article 455 insofar as they affect the liability of shareholders in corporations having banking or discount privileges, shall be entirely prospective in effect and shall not apply to any such corporate body as may have ceased to transact its regular

corporate business prior to the effective date hereof, but as to such corporation the rights of its creditors and the liability of its shareholders are saved from this Act, and shall be governed by the law as it existed at the time of such closing."

Section 5 makes the act effective on adoption of constitutional amendment, section 6 provides that if any section or paragraph is declared invalid, such invalidity shall not affect the remainder of the act and section 7 declared an emergency, but the vote thereon was not recorded.

TITLE 19A—THE SECURITIES ACT [New]

[Art. 600a. The Securities Act]

[Fees]

Sec. 35. The Secretary of State shall charge and collect the following fees and shall daily pay all fees received into the State Treasury:

(a) For the filing of any original or renewal application of a dealer, Twenty-five (\$25.00) Dollars.

(b) For each and every registration certificate issued to a dealer, whether on an original or renewal application, Ten (\$10.00) Dollars.

(c) For the filing of any original or renewal application for each salesman, Ten (\$10.00) Dollars.

(d) For each and every registration certificate issued to each salesman, Five (\$5.00) Dollars.

(e) For each and every registration certificate issued to a dealer or salesman after the first day of July of any year, one-half of the fee provided in subsections (b) and (d) herein, whichever is applicable.

(f) For the filing of any original or renewal application of an issuer to sell or dispose of stock, Five (\$5.00) Dollars.

(g) For each and every permit issued to an issuer, a fee of one-tenth of one per centum of the aggregate par value of the securities to be sold in this State. In case of stock having no par value, the price at which such stock is to be offered to the public shall be deemed to be the par value of such stock.

(h) For each and every renewal permit issued to an issuer, Five (\$5.00) Dollars.

(i) For copies of any papers filed in the office of the Secretary of State, or for the certification thereof, the Secretary of State shall charge such fees as the Secretary of State is now authorized to charge in similar cases.

(j) For the filing of any original or renewal application of a dealer of any instrument representing any interest in or under an oil, gas, or mining lease, fee, or title, a fee of Twelve (\$12.00) Dollars.

(k) For each and every registration certificate issued to a dealer under the terms of subsection (i) shall pay a fee of Five (\$5.00) Dollars. [As amended Acts 1937, 45th Leg., S.B. #142, § 1.]

Amendatory act of 1937, effective May 23, 1937.

Section 3 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

[Fees paid to State Treasurer; use for administration of act]

Sec. 36. Upon and after the effective date of this Act, all moneys derived from fees, assessments or charges under this Act shall be paid by the Secretary of State into the State Treasury for safe-keeping, and shall, by the State Treasurer, be placed in a separate fund to be available for the use of the Secretary of State in the administration of this Act upon requisition of the Secretary of State. All such moneys so paid into the State Treasury are hereby specifically appropriated to the Secretary of State for the purpose of paying the salaries and expenses of all persons employed or appointed as provided herein for the administration of this Act, and all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such offices or quarters as the Secretary of State may occupy, and necessary traveling expenses of the Secretary of State and the Attorney General or persons authorized to act for either when performing duties

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

hereunder at the request of the Secretary of State. Provided, however, in no event shall the expenditure for the administration of this Act exceed Forty-five Thousand (\$45,000.00) Dollars for any one fiscal year.

It is further provided that the compensation of all persons employed for the administration of this Act shall be in line with salaries paid other state officials and employees holding similar positions, and doing similar work; and, after August 31, 1937, all expenditures for the administration of this Act shall be in the amounts and for the purposes fixed by the Legislature in the General Appropriation Bill.

At the end of the fiscal year any unused portion of said funds in said special account shall be set over and paid into the General Revenue Fund.

The Comptroller shall, upon requisition of the Secretary of State, from time to time draw warrants upon the State Treasurer for the amounts specified in such requisition, not exceeding however, the amount in such fund at the time of making of any requisition therefor.

The sum of Ten Thousand (\$10,000.00) Dollars of the Forty-five Thousand (\$45,000.00) Dollars herein appropriated is hereby appropriated for the balance of the Fiscal Biennium. [As amended Acts 1937, 45th Leg., S.B. #142, § 2.]

Amendment of 1937, effective May 28,
1937.

TITLE 20—BOARD OF CONTROL

Chap.

8. Division of Public Welfare [New].

CHAPTER ONE—GENERAL PROVISIONS

Art. 604. New Divisions

Texas Old Age Assistance Commission, article 6243—4, post.
State Board of Control as constituting, see

CHAPTER SEVEN A—DIVISION OF CHILD WELFARE

Art. 695a. Creation of Child Welfare Division; Chief of division; appointment and salary; assistants and salaries

Rights, powers, and duties of Child Welfare Division of Public Welfare, see art. 695b,
fare Division continued and transferred to §§ 7, 39, post.

CHAPTER EIGHT—DIVISION OF PUBLIC WELFARE [NEW]

Art.

695b. Definitions

Art. 695b. Definitions

Section 1. As used in this Act and unless a different meaning appears in the context:

- a. The term "Board" means the State Board of Control.
- b. The term "Division" means the Division of Public Welfare of the State Board of Control, its agents, representatives, and employees.
- c. The term "Executive Director" means Executive Director of the Division of Public Welfare.
- d. The term "Public Welfare" means and includes all forms of public assistance and specific services provided for in this Act.
- e. The term "Dependent and Destitute Child" means a needy child under the age of fourteen (14) years, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and whose relatives liable under the law for his support are not able to provide proper care or support for such child without public assistance, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt, in a place of residence maintained by one or more such relatives as his or their home.
- f. The term "Child Welfare Services" means services for children provided for in this Act.

Creation of Division of Public Welfare

Sec. 2. There is hereby created a Division of Public Welfare of the State Board of Control.

Board of Control to exercise power through Division of Public Welfare

Sec. 3. Whenever, by any of the provisions of this Act, or of any other Act, any right, power, or duty is imposed or conferred on the Division of Public Welfare, the right, power, or duty so imposed or conferred shall be possessed and exercised by the State Board of Control through the Division of Public Welfare, unless any such right, power, or duty is delegated to the duly appointed agents or employees

of such Division, or any of them, by an appropriate rule, regulation, or order of the Board.

Powers of Board of Control

Sec. 4. a. The Board shall select and appoint an Executive Director who shall serve as the executive and administrative officer of the Division. He shall be a person of demonstrated executive ability and extensive experience in public welfare. He shall serve at the pleasure of the Board and his salary shall be fixed by the Board until otherwise changed by biennial appropriations therefor, not to exceed Forty-five Hundred Dollars (\$4500) annually.

b. The Board shall adopt all policies, rules, and regulations for the administration of the Division.

c. The Board, through the Division, is hereby charged with the administration or supervision of the public welfare activities of the State as hereinafter provided. The Board through the Division shall:

1. Administer or supervise aid to dependent and destitute children and assistance to the needy blind.

2. Administer or supervise all child welfare services, except as otherwise provided for.

3. Make such rules and regulations and take such action as may be deemed necessary or desirable to carry out the provisions of this Act, and which are not inconsistent therewith.

4. Cooperate with the Federal Social Security Board, created under Title 7 of the Social Security Act enacted by the Seventy-fourth Congress and approved August 14, 1935,¹ and any amendments thereto, and with any other agency of the Federal Government in any reasonable manner which may be necessary to qualify for Federal Aid for assistance to persons who are entitled to assistance under the provisions of that Act, and in conformity with the provisions of this Act, including the making of such reports, in such form and containing such information as the Federal Social Security Board or any other agency of the Federal Government may, from time to time, require, and comply with such requirements as such Board or agency may, from time to time, find necessary to assure the correctness and verification of such reports.

5. Fix the fees to be paid to ophthalmologists and eye specialists, for the examination of applicants for, and recipients of, assistance as needy blind persons.

6. Have the power and it shall be its duty to:

(a) Classify all positions in the administration of this Act (except that of Executive Director);

(b) Fix the standards for all positions included in the classification;

(c) Formulate salary schedules for the services so classified, subject to biennial appropriations;

(d) All salaries for employees shall be as fixed by the Departmental Appropriation Bill passed by the Regular Session of the Forty-fifth Legislature;

(e) Provide for the fair and impartial selection, appointment, and retention of all personnel (except the Executive Director).

7. Assist other departments, agencies, and institutions of the local, State, and Federal Governments, when so requested and cooperate with such agencies when expedient, in performing services in conformity with the purposes of this Act.

8. May establish in counties, or in districts, which may include two (2) or more counties, local units of administration to serve as agents of the Division. To serve in an advisory capacity to such local, county,

or district units, there may be established local boards of public welfare, but such boards shall receive no compensation.

9. The Board shall have the right to coordinate the work of the employees of the Old Age Assistance Commission and the employees allowed under this Act for the purposes of efficiency and economy in administration of both Acts; and, where possible, the agencies of the Old Age Assistance Commission are hereby directed to be utilized.

¹ 43 U.S.C.A. §§ 901-904.

Biennial budget

Sec. 5. The Executive Director shall prepare and submit to the Board for its approval a biennial budget of all funds necessary to be appropriated by the Legislature for the Division for the purposes of this Act, including in such budget an estimate of all Federal funds which may be allotted to this State by the Federal Government for the purposes of the Division. The budget so prepared shall be submitted to and filed with the Budget Officer of the Board in the form and manner and within the time prescribed by law.

Annual reports

Sec. 6. The Executive Director shall prepare annually a full report of the operation and administration of the Division, together with such recommendations and suggestions as he may deem advisable, and such report shall be submitted to the Board not later than the first day of October of each year. The Board, in turn, shall submit a report to the Governor and the Legislature.

Rights, powers, and duties of Child Welfare Division transferred to Division of Public Welfare

Sec. 7. a. All of the rights, powers, and duties heretofore conferred by law on the Division of Child Welfare, when not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon, the Division of Public Welfare as created by this Act, and shall be held, exercised, and performed by the Division of Public Welfare under the provisions of this Act and the several Acts now in force. To effectuate this purpose the Division of Child Welfare, its staff, (subject to the subsequent operation of Section 4 c. (6) of this Act), records, and physical properties are transferred to the Division of Public Welfare and placed under its supervision, and the Division of Child Welfare of the State Board of Control is hereby abolished.

b. All of the rights, powers, and duties heretofore conferred by law upon the Texas Relief Commission, not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon, the Division of Public Welfare as created by this Act, and shall be held, exercised, and performed by the Board through the Division of Public Welfare under the provisions of this Act, and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose, the staff, (subject to the subsequent operation of Section 4 c. (6) of this Act), records, and physical properties of the Texas Relief Commission are transferred to the Division of Public Welfare and placed under its supervision, and the Texas Relief Commission, as referred to in Chapter 30 of the Acts of 1935,¹ is hereby abolished.

c. Provided, that no provision of this Act shall in any manner interfere with the powers and functions of the Vocational Rehabilitation Department of Education, the State Commission for the Blind, or the Division of Maternal and Child Health of the State Health Department.

¹ Article 842e, Penal Code, art. 107f.

Benefits of Federal Social Security Act accepted

Sec. 8. The State of Texas, in addition to the benefits heretofore accepted and provisions made therefor, does hereby accept the provisions and benefits of Title IV,¹ Part 3 of Title V,² and Title X³ of the Federal "Social Security Act," enacted by the Congress of the United States and approved on August 14, 1935, which, by the provisions of this Act, the Board through the Division is authorized to administer, and will observe and comply with all of the requirements of such Act and the several amendments thereto and the rules and regulations issued thereunder and in conformity therewith in so far as may be applicable herein.

¹ 42 U.S.C.A. §§ 601-606.

² 42 U.S.C.A. § 721.

³ 42 U.S.C.A. §§ 1201-1206.

State Treasurer custodian of moneys received under Federal Social Security Act and other sources; disbursements on order of Board

Sec. 9. a. The State Treasurer is hereby designated as the custodian of any and all money which may be received by the State of Texas, (which the Board through the Division is authorized to administer), from any appropriations made by the Congress of the United States for the purpose of cooperating with the several States in the enforcement and administration of the several provisions of the Federal "Social Security Act,"¹ and all money received from any other source; and the State Treasurer is hereby authorized to receive such money, pay it into the proper fund or the proper account of the General Fund of the State Treasury, provide for the proper custody thereof and to make disbursements therefrom upon the order of the Board and upon warrant of the State Comptroller of Public Accounts.

b. The State Treasurer shall transfer to the credit of an account to be designated and known as "The Division of Public Welfare of the Board of Control" any moneys in the General Fund or any special fund credited to the Division of Child Welfare of the Board of Control, and the Texas Relief Commission of the Board of Control, for the remainder of the biennium commencing on the effective date of this Act. Provided that all General or Special Funds hereby transferred shall be expended only for the purpose or purposes for which they were created or appropriated.

¹ 42 U.S.C.A. §§ 301-1305.

Board of Control designated state agency to cooperate in enforcement of Federal Social Security Act

Sec. 10. The Board is hereby designated as the State Agency to cooperate with the Federal Government in the administration of the provisions of Title IV,¹ Part 3 of Title V,² and Title X,³ of the Federal "Social Security Act." The Board is hereby authorized and directed to cooperate with the proper departments of the Federal Government and will⁴ all other departments of the State and local governments in the enforcement and administration of such provisions of the Federal "Social Security Act," and any amendments thereto and the rules and regulations issued thereunder, and in compliance therewith, in the manner prescribed in this Act, or as otherwise provided by law.

¹ 42 U.S.C.A. §§ 601-606.

² 42 U.S.C.A. § 721.

³ 42 U.S.C.A. §§ 1201-1206.

⁴ Probably should read "with".

Needy blind persons; qualifications for assistance

Sec. 11. Assistance shall be given under the provisions of this Act to any needy blind person who:

- a. Is over the age of twenty-one (21) years; and
- b. Whose vision is insufficient for use in an occupation for which sight is essential; and who
- c. Has resided in this State for five (5) years during the nine (9) years immediately preceding the date of application, or who suffered loss of sight while a resident of this State and has resided continuously in this State since such loss of sight, or who was blind and resided in this State at the time of the passage of this Act, and who has resided in this State continuously for one year immediately preceding the date of application; and
- d. Who is not an inmate of any eleemosynary, charitable or correctional institution of this State, or of any county or city thereof; provided that an inmate of such a charitable institution may, at the discretion of the Division of Public Welfare of the State Board of Control, be granted a benefit in order to enable him to maintain himself outside the institution; and
- e. Who is not publicly soliciting alms in any part of this State. The term "publicly soliciting" shall be construed to mean the wearing, carrying, or exhibiting the signs denoting blindness, or the carrying of receptacles for the reception of alms, or the doing of the same by proxy, or by begging from house to house.
- f. Who is a citizen of the United States.

Needy blind person receiving old age assistance not eligible to receive assistance under Act

Sec. 12. No aid to needy blind persons shall be given under the provisions of this Act to any individual for any period with respect to which he is receiving aid under the Old Age Assistance Act¹ of the State of Texas.

¹ Article 6243-1.

Determination of amount of assistance for needy blind person

Sec. 13. The amount of assistance which shall be granted to any needy blind person shall be determined by the Board through the Division, through its district or county agencies in the county or district in which the needy blind person resides, with due regard to the resources and necessary expenditures of such needy blind person, and the conditions existing in each case, and in accordance with the rules and regulations made by the Board, and who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.

Limitation on amount of assistance to needy blind person

Sec. 14. The amount of assistance that may be paid to any needy blind person, who has qualified under the terms of this Act, shall not exceed the sum of Fifteen Dollars (\$15) per month, and, in addition thereto, such funds as the Federal Government may appropriate and allocate to the State of Texas from time to time shall be distributed among the recipients of assistance in like manner as State funds are paid under the terms of this Act; provided that in no case shall such assistance be in an amount which, when added to the income of the applicant from all other sources, including income from property and from the State and Fed-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

eral Government, shall exceed a total of Thirty Dollars (\$30) per month, provided that the assistance granted herein shall be granted in such amounts as will provide reasonable subsistence not incompatible with good health and decency.

Examination by eye-specialist prerequisite to approval of application for assistance to needy blind person

Sec. 15. No application for assistance as a needy blind person shall be approved until the applicant shall have been examined by an ophthalmologist, eye specialist, or a physician licensed to practice medicine in Texas, and who has been approved by the Board through the Division to make such examinations. The examining ophthalmologist, eye specialist, or physician shall certify, in writing upon forms prescribed by the Board through the Division as to the cause, diagnosis, and prognosis, and shall make recommendations as to medical and surgical treatment. The Board shall adopt reasonable fee schedules for such examinations. Such fees shall be paid out of the funds appropriated to the Division for the purpose of assistance to needy blind persons under the provisions of this Act or for administrative expense.

Assistance to needy blind person not transferable and exempt from attachment, execution, etc.

Sec. 16. No assistance given to any needy blind person under the provisions of this Act shall be transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law.

Reconsideration of assistance; change or withdrawal of assistance; notice

Sec. 17. All assistance granted under the provisions of this Act to any needy blind person shall be reconsidered as frequently as may be required by the rules of the Division. After such further investigation as the Board through the Division may deem necessary or may require, the amount of assistance may be changed, or assistance may be entirely withdrawn if the Board through the Division finds that the recipient's circumstances have altered sufficiently to warrant such action. The Division may at any time cancel and revoke assistance or it may suspend assistance for such period as it may deem proper, upon the ground of ineligibility of the recipient under the provisions of this Act. Whenever assistance is thus withdrawn, revoked, suspended, or in any way changed, the Division shall at once notify the recipient of such decision.

Re-examination of eyesight; information furnished Board

Sec. 18. Every recipient of assistance as a needy blind person shall submit to a re-examination of his eyesight at least once every two (2) years, unless excused therefrom by the Division. He shall also furnish any information required by the Division.

Assistance denied persons refusing medical treatment; hearing

Sec. 19. No assistance under the provisions of this Act shall be granted or continued to any needy blind person who refuses medical, surgical, or other treatment, when his eyesight may be partially or wholly restored by such treatment and a certificate in writing to that effect is made by the examining physician, ophthalmologist, or eye specialist. Any person who is denied assistance upon this ground shall be granted an opportunity for a fair hearing as herein provided. The Board may

appoint regular practicing physicians to examine the needy blind as to their physical conditions, and appoint ophthalmologists, eye specialists, or physicians, to examine applicants as to the condition of their eyes.

Medical treatment or surgical operation; payment of expenses of

Sec. 20. If the Division, upon examination, finds that the recipient or claimant for assistance may have such disability benefited or removed by proper surgical operation or medical treatment, according to the evidence of a qualified ophthalmologist, eye specialist, or physician, and such person entitled to such assistance files his consent in writing, then the Division may expend for such surgical operation or medical treatment and other expenses incidental thereto, all or any portion of the assistance which the said Division may award any such person for one year under the provision of this Act. In such case, the warrant may be directly issued to the person performing such surgical operation or rendering such medical or other services, by the Division, instead of being paid as the Division may have directed to the person entitled thereto.

Penalty for wrongful procuring of assistance or misappropriation

Sec. 21. Any person who shall knowingly, or wilfully procure or attempt to procure, directly or indirectly, any allowance for assistance under this Act, for or on account of a person not entitled thereto, or who shall knowingly or wilfully pay, or permit to be paid, any allowance to a person not entitled thereto, shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100), or not less than six (6) months, nor more than two (2) years imprisonment in the county jail, or by both fine and imprisonment.

Rules and regulations as to amount of visual acuity

Sec. 22. The Board shall promulgate such rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for assistance under this Act.

Destitute children, qualifications for assistance as

Sec. 23. Assistance may be given under the provisions of this Act to any dependent and destitute child who:

- a. Is a citizen of the United States;
- b. Has resided in this State for a period of at least one year immediately preceding the date of the application for such assistance; or was born within the State within one year immediately preceding the date of application, and whose mother has resided in the State for a period of at least one year immediately preceding the birth of such child.

Amount of assistance granted dependent and destitute children

Sec. 24. The amount of assistance which shall be granted for any dependent and destitute child shall be determined by the Board through the Division, through its district or county agencies in the county or district in which the child resides, with due regard to the resources and necessary expenditures of the family of such child and the conditions existing in each case, and in accordance with the rules and regulations made by the Board, and shall be sufficient, when added to all other income and support available to the child to provide such child with a reasonable subsistence compatible with decency and health. Provided that the amount of assistance that may be paid for any dependent and destitute child, who has qualified under the terms of this Act, shall not exceed

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the sum of Eight Dollars (\$8) per month, or if there is more than one dependent and destitute child in the same home, the aggregate sum paid for all such children shall not exceed Twelve Dollars (\$12) per month, and, in addition thereto, such funds as the Federal Government may appropriate and allocate to the State of Texas from time to time shall be distributed to the recipients of assistance in like manner as State funds are paid under the terms of this Act; provided that in no case shall such assistance be in an amount which, when added to the assistance received from all other sources, including assistance from the State and Federal Governments, shall exceed a total of Sixteen Dollars (\$16) per month for any one such dependent and destitute child, or if there is more than one dependent and destitute child in the same home, the aggregate sum paid for all such children shall not exceed Twenty-four Dollars (\$24) per month.

Application for assistance as dependent and destitute child; supervision by local office

Sec. 25. Application for assistance for a dependent and destitute child under the provisions of this Act shall be made in the manner and upon the form prescribed by the Board. During the period in which assistance is granted, the local office shall be responsible for continuous supervision and general guidance of all children aided.

Child living with relatives

Sec. 26. When the investigation discloses that a child in whose behalf application for assistance has been made is a dependent and destitute child as defined in this Act, and that such child is living, or will live, with one or more of the relatives prescribed in this Act, assistance may be allowed for the support of such child if other provisions of this Act are complied with.

Board designated State Agency to cooperate with Children's Bureau of Federal Department of Labor

Sec. 27. The Board through the Division is hereby designated as the agency to cooperate with the Children's Bureau of the United States Department of Labor in:

a. Establishing, extending, and strengthening, especially in predominantly rural areas, public welfare services for the protection and care of homeless, dependent, and neglected children and children in danger of becoming delinquent; and

b. Developing State services for the encouragement and assistance of adequate methods of community child welfare organization and paying part of the cost of district, county, or other local child welfare services in areas predominantly rural and in other areas of special need; and as may be determined by the rules and regulations of said Board; and

c. Developing such plans as may be found necessary to effectuate the services contemplated in this Section, and to comply with the rules and requirements of the Children's Bureau of the United States Department of Labor issued and prescribed in conformity with, and by virtue of, the Federal "Social Security Act."¹

¹ 42 U.S.C.A., §§ 301-1305.

Assistance to other needy persons or families

Sec. 28. Assistance shall be granted under the provisions of this Act to all persons or families who are in dependent and needy circumstances, and who are ineligible for, or not currently receiving, assistance in other categories specified in this Act.

Local administration units for general relief services

Sec. 29. The Board through the Division shall designate or establish district or local units of administration as its agents in administering these general relief services.

Cooperation with Federal government in administration and distribution of Federal surplus commodities

Sec. 30. The Board through the Division is hereby designated as the State Agency to cooperate with the Federal Government in the proper administration and distribution of Federal surplus commodities and any other Federal resources now on hand and available, or that may be provided in the future.

Hearing on denial, revocation, or modification of assistance to needy blind person or dependent and destitute child

Sec. 31. Whenever an application for assistance made by a needy blind person, or with respect to a dependent and destitute child, is denied, or a grant that has been made is revoked, cancelled, or modified, the applicant or recipient, as the case may be, shall have an opportunity for a fair hearing before the Board or a responsible agent designated by the Board within a reasonable time. All decisions on fair hearing shall be made by the Board.

Fees for representing applicant for, or recipient of, assistance prohibited; notary fees excepted

Sec. 32. No person shall make any charge or receive any fee for representing any applicant or recipient of assistance to the needy blind or to any dependent and destitute child, or for any child welfare services with respect to any application before the State Board or any of its agents, whether such fee or charges be paid by the applicant or recipient or any other person, except the usual and customary notary fees.

Records concerning applicants or recipients, confidential; inspection by authorized state or federal officials or employees

Sec. 33. All records concerning any applicant or recipient contemplated in this Act shall be confidential, and shall be open to inspection only to persons duly authorized by the State or the United States, in connection with their official duties; provided, however, that such records shall be available to applicants and recipients and their duly authorized agents for use in a hearing before the Board or any other tribunal.

Liability for maintaining parent, child, or spouse unaffected; recovery of amount of assistance paid

Sec. 34. Nothing contained in this Act shall be construed to relieve any person from the liability of maintaining and supporting his parent or parents or child or spouse as provided or hereafter provided by the laws of this State. If at any time during the continuance of needy blind assistance or assistance to dependent and destitute children, or general relief, the Division has reason to believe that a spouse, son, or daughter or parent of recipient is liable for the support of the recipient and is reasonably able to assist the recipient, the Board through the Division shall, after notifying such person of the amount of the assistance granted, be empowered to bring suit against such spouse, son, or daughter or parent to recover the amount of assistance paid under the provisions of this Act subsequent to such notice, or such part thereof as such spouse, son, or daughter or parent might reasonably have paid.

Removal from state as affecting eligibility for assistance

Sec. 35. Any person who is receiving assistance under the provisions of this Act and who moves out of and does not reside in the State

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shall, by virtue of that fact, be deemed ineligible to receive assistance in this State, except that temporary absence from the State for such periods of time, and for such reasons as the Board through the division shall approve, shall not be deemed to interrupt the residence of the recipient as prescribed in this Act.

Old age no bar to receiving public relief

Sec. 36. No person who has attained the age of sixty-five (65) and who is not receiving old-age assistance shall, by reason of his age, be debarred from receiving other public relief and care.

Purpose of act; liberal construction

Sec. 37. The purpose of this Act is to inaugurate a program of social security and to provide necessary and prompt assistance to the citizens of this State who are entitled to avail themselves of its provisions. This Act shall be liberally construed in order that its purposes may be accomplished as equitably, economically, and expeditiously as possible.

Penalty for misrepresentations or false impersonations in obtaining assistance

Sec. 38. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a wilfully false statement or representation or by impersonation, or by other fraudulent means:

- a. Assistance, services, or treatment to which he is not entitled;
- b. Assistance, services, or treatment greater than that to which he is justly entitled;
- c. Payment of any forfeited installment grant; or with intent to defraud, aids or abets in buying or in any way disposing of the property of a recipient of assistance without the consent of the Board through the Division, or whoever violates Section 33 of this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined any sum not more than One Hundred Dollars (\$100) or be imprisoned for not less than three (3) months, nor more than two (2) years, or be both so fined and imprisoned.

Officers and agencies to continue discharging duties transferred until certification of organization of Division

Sec. 39. a. Notwithstanding the taking effect of this Act, the several officers and agencies of the State whose duties are transferred by this Act to the Division shall continue to discharge the respective duties which they were discharging at the time of the taking effect of this Act, until the Board shall certify in writing, to the Secretary of State and the Comptroller of Public Accounts, that the Division of Public Welfare is organized, as prescribed in this Act and is prepared to assume the duties assigned to it by the provisions of this Act.

b. All matters and orders pending before or made by any officer or department or unit transferred under this Act to the Division shall be deemed to be continued in like status in such department.

Assistance granted subject to amending or repealing Acts

Sec. 40. All assistance granted under the provisions of this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing Act.

County Child Welfare Boards to be dissolved

Sec. 41. At such time as county or district boards may be appointed under the terms of this Act, County Child Welfare Boards established in conformity with Section 4 Acts of 1931, Forty-second Legislature, Page 323, Chapter 194,¹ shall be dissolved and shall cease to function.

¹ Article 695a, § 4.

Appropriation

Sec. 42. There is hereby appropriated out of the General Revenue of this State an additional sum of Twenty-five Thousand Dollars (\$25,000), or so much thereof as may be necessary, for the purpose of carrying out the provisions of this Act.

Counties not released from responsibility

Sec. 43. No provision of this Act is intended to release the counties in this State from the specific responsibility which is currently borne by those counties in support of public welfare, child welfare, and relief services. Such funds which hereafter may be appropriated by the counties for those services and administered through the county or district offices shall be devoted exclusively to the services in the county making such appropriation.

Appropriation

Sec. 44. For the purpose of paying the additional expenses placed upon the Comptroller of Public Accounts under the provisions of this Act, including the purchase of equipment and supplies, printing or warrants, and stationery, office space, and any other expenses necessary in carrying out the provisions of this Act, there is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, the sum of Ten Thousand Dollars (\$10,000), or so much thereof as may be necessary, for the period beginning on the effective date of this Act and ending August 31, 1937.

Partial invalidity

Sec. 45. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstances is held invalid, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Name of Act

Sec. 46. This Act shall be known and may be cited as "The Public Welfare Act of 1937." [Acts 1937, 45th Leg., H.B. #7.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 47 repeals all conflicting laws and parts of laws. Section 48 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act creating a State Division of Public Welfare within the Board of Control for the State of Texas; defining certain words and phrases; providing that the Division of Public Welfare, its agents, representatives, and employees shall constitute the Division of Public Welfare within the Board of Control; prescribing the rights, powers, and duties of said Division of Public Welfare; providing for the selection

and appointment of an Executive Director; prescribing the qualifications, duties, and fixing the salary of such Executive Director; providing for reports of the Executive Director and of the Division of Public Welfare to the Board of Control and through the Board of Control to the Governor and the Legislature of Texas; providing for the creation of such departments within the Division of Public Welfare as the Board of Control may deem necessary; providing that all the rights, powers, and duties of the Division of Child Welfare, and the Texas Relief Commission shall be retained within the State Board of Control as a part of the Division of Public Welfare; providing that the staff, records, and physical properties of the

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Division of Child Welfare, and the Texas Relief Commission shall remain with the State Board of Control and be a part of the Division of Public Welfare; accepting the provisions and benefits of Title IV, Part 3 of Title V and Title X of the Federal Social Security Act of 1935; providing for the establishment of local units of administration in counties or districts through the board's agencies, providing for non-salaried local advisory boards; providing for the custody and disbursement of all funds received by the State Division of Public Welfare in the Board of Control; providing for the transfer of moneys in the General Fund or in the Special Fund credited to the Division of Child Welfare of the Board of Control and the Texas Relief Commission, to the State Division of Public Welfare, and providing for the expenditure thereof; making appropriation for paying additional expenses placed upon the Comptroller of Public Accounts under the provisions of this Act; designating the State Division of Public Welfare a State Agent to cooperate with the Federal Government in the administration of the provisions of Title IV, Part 3 of Title V, and Title X of the Federal Social Security Act; providing for granting assistance to blind persons, assistance to dependent destitute children, and general assistance to needy persons and families; providing for the Legislature to limit the amount of assistance to be paid, each, to needy blind and to dependent destitute children; providing for placing an age limit with respect to needy blind and dependent destitute children; providing that the Board limit the amount of assistance granted to the needy blind and to dependent destitute children, according to circumstances of each recipient; limiting the amount that may be appropriated annually as assistance for dependent destitute children; providing the Board shall promulgate rules and regulations concerning the amount of visual acuity the applicant for assistance may have; providing for cooperation with the Children's Bureau of the United States Department of Labor in Public Services for the protection and care of homeless, dependent, and neglected children; providing for the supervision and licensing of all institutions, boarding homes, and agencies providing assistance, care, or other direct services to dependent, destitute, neglected, and delinquent children, blind, feeble-minded, and other dependent persons; providing for the filing of applications for assistance under the provisions of this Act; providing for appointment of ophthal-

ologists, eye specialists and physicians for examination of eyes of applicants; providing for investigation of applicants for assistance, orders thereon, appeals, and hearing therein; providing for decisions on fair hearing to be made by the Board; prescribing the method of determining the amount of assistance, if any, each applicant is entitled to under this Act; providing for discontinuance of grants of assistance; providing that grants of assistance under the provisions of this Act shall be inalienable and not subject to civil process; providing for designation of local or district administrative units for administering general relief; designating the State Division of Public Welfare as State Agency to cooperate with the Federal Government in the administration and distribution of Federal surplus commodities and other Federal resources; providing that no person shall make any charge or receive any fee for representing any applicant or recipient of assistance under the provisions of this Act; providing that records of applicants or recipients under this Act shall be confidential; providing that such records shall be available to applicants and recipients for hearing before Board or other tribunal; providing that the provisions of this Act shall not relieve any person from liability of maintaining and supporting his parent or parents or child or spouse; making provisions for recovery of assistance given any person in excess of amount to which such person is entitled under the provisions of this Act; providing this Act shall not interfere with powers and functions of certain other Departments; providing that all matters and orders pending before or made by any officer or department or unit transferred under this Act to the State Division of Public Welfare shall be deemed to be continued in like status in such department; defining a blind person; defining dependent destitute children providing that the Board shall coordinate the work of employees of the Old-Age Assistance Commission and the employees allowed under this Act for purposes of efficiency and economy; providing for the dissolution of County Child Welfare Boards established in conformity with Section 4, Acts of 1931, Forty-second Legislature, Page 323, Chapter 194; fixing penalties for violations of the provisions of this Act; making appropriation for administrative costs; repealing all laws in conflict; providing a savings clause; providing short Title; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #7.]

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

Art.
716b. Validating county bond issues and elections between June 19 and August 17, 1936. [New].

Art.
717d. Validating county bonds for road construction and tax levies. [New].

Art. 716b. Validating county bond issues and elections between June 19 and August 17, 1936

That all proceedings heretofore had by the governing bodies of all counties, between June 19, 1936 and August 17, 1936, both inclusive, in the State of Texas in connection with the issuance of bonds for any purpose, including the orders for and notices of elections, the conduct and returns of elections, and the canvassing of such returns of such elections, and the bonds heretofore or hereafter issued pursuant thereto, are hereby in all things fully validated, confirmed, approved and legalized, including among others, instances wherein there have been irregularities in the calling of elections and the giving of notice of elections, notwithstanding the fact that the election order designated a time for holding the election on a day more than thirty (30) days from the date of such order, and notwithstanding the fact that the notice of election was posted within such county instead of having been both posted and published in a newspaper of general circulation, and notwithstanding the fact that both such irregularities have occurred in connection with the same election. All bonds issued pursuant to such proceedings, when approved by the Attorney General of the State of Texas, registered in the office of the Comptroller of Public Accounts, and delivered to the purchasers thereof, shall constitute valid and binding obligations of such county. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, are hereby in all things validated, confirmed, approved and legalized.

Provided, however, that the provisions of this Act shall not apply to any such proceedings or obligations issued thereunder, the validity of which is being contested or attacked in any suit or litigation pending at the time this Act becomes effective, or that may be filed sixty (60) days after the effective date hereof and shall not validate any levy, assessment of valuation made or placed on any property where any suit, as aforementioned, shall be or shall have been filed within the time aforementioned. [Acts 1936, 44th Leg., 3rd C.S., p. 2098, ch. 504, § 1.]

Effective 90 days after Oct. 27, 1936, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating all proceedings heretofore had by the governing bodies of all counties in connection with the issuance of bonds for any purpose, including election orders, notices of election, returns of election, orders canvassing election returns, and bonds issued pursuant thereto, including among others, instances wherein there have been irregularities in the call-

ing of elections and in the giving of notice of elections; providing that when approved by the Attorney General and registered in the office of the Comptroller of Public Accounts and delivered to the purchasers thereof said bonds shall constitute valid and binding obligations, validating tax levies made to support said bonds; providing that the provisions of this Act shall not apply in instances wherein the validity of such proceedings or obligations is being litigated at the time this Act becomes effective, and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 2098, ch. 504.]

Art. 717d. Validating county bonds for road construction and tax levies

Section 1. That where, under authority of Section 52, of Article 3, of the Constitution of the State of Texas, a two-thirds majority of the resident property taxpayers, being qualified electors of any county voting on the proposition, having voted at an election held in such county called by the County Commissioners' Court of such county, in favor of the issuance of bonds of such county and the levy of a tax upon the taxable property therein for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption thereof for the construction, maintenance and operation of macadamized, graveled or paved roads or turnpikes, or in aid thereof within such county, the canvass of said vote, revealing such majority having been recorded in the minutes of said County Commissioners' Court, and where thereafter the County Commissioners' Court of each such county, by order adopted and recorded in its minutes, authorized the issuance of such bonds of such county, prescribed the date and maturity thereof and rate of interest the bonds were to bear, the place of payment of principal and interest, and providing for the levy of a tax upon the valuation of taxable property in each such county according to the value thereof as fixed for State and County purposes, sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, and such bonds were approved by the Attorney General of the State of Texas and thereafter issued and delivered, each such election and all acts and proceedings had and taken in connection therewith by such County Commissioners' Court in respect of such bonds, levy of taxes, construction, maintenance and operation of macadamized, graveled or paved roads or turnpikes, or in aid thereof, are hereby legalized, approved and validated; and such bonds are hereby validated and constitute the legal obligations of such county. Any such county bonds heretofore voted and authorized, as aforesaid, and not yet issued, may be issued and delivered by order of the County Commissioners' Court of such county when approved by the Attorney General of the State of Texas and such bonds shall constitute the valid and binding obligation of such county.

Sec. 2. That taxes, sufficient to pay the principal of and interest upon such bonds, so levied for such purpose upon the valuation of taxable property in such County, according to the value of taxable property as determined for State and County purposes, are hereby found and fixed as the amount to be raised in each such county, and constitute the basis for such taxation, and the assessment and levy of such taxes is hereby validated and legalized; and such taxes, in an amount sufficient to pay the principal of and interest upon such bonds now outstanding, or hereafter issued, as aforesaid, shall be annually assessed and collected according to the value of taxable property as fixed for State and County taxes, by the County Commissioners' Court of each such county and express authority so to do is hereby delegated and granted to such courts.

Sec. 3. That such orders, and all other orders adopted by such County Commissioners' Court in respect of such bonds and taxes, as the same appear upon the record of such court, or copies thereof duly certified, are hereby constituted legal evidence of such orders, and shall be authority for such court to annually levy, assess and collect taxes in an amount sufficient to pay the principal of and interest upon such bonds as the same mature and become due, such taxes to be levied and assessed upon the value of taxable property in such county as fixed for state and county taxes.

Sec. 4. That the legislature hereby exercises the authority upon it conferred by Section 52 of Article 3, of the Texas Constitution, and con-

firms and ratifies the acts and proceedings of such courts in respect of such election, authorization, issuance and delivery of such bonds, the levy of taxes to pay principal thereof and interest thereon, with like effect, as though at the time or times said acts and proceedings were done or had, there existed statutory authority for the doing thereof. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law. [Acts 1937, 45th Leg., S. B. # 188.]

Effective Feb. 22, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating and legalizing bonds issued by counties for the construction of roads within such counties and the levy of taxes for payment of such county bonds; authorizing the assessment and collection of general ad valorem taxes in

all such counties for the payment of such county bonds now outstanding or hereafter issued; providing, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law, and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 188.]

CHAPTER THREE—PUBLIC ROAD BONDS

1. COUNTY AND DISTRICT BONDS

Art.

752y—2. Refunding road bonds in counties lands of which are purchased for reforestation [New].

1. COUNTY AND DISTRICT BONDS

Art. 752x. Refunding bonds

Funding or refunding road bonds in Col-
lin County, special act, see Acts 1936, 44th

Leg., 3rd C.S., p. 2094, ch. 503.

Art. 752y—2. Refunding road bonds in counties lands of which are purchased for reforestation

That the Commissioners Court of any county wherein the United States Government has or shall hereafter purchase or has designated a purchase unit of at least twenty-five (25) per cent in area of the land in said county for reforestation and other purposes may, with the consent of the Board of County and District Road Indebtedness and the holders of at least eighty (80) per cent of the bonds hereinafter described, refund, under the provisions of existing law, the road bonds of any such county or of any road district or political subdivision thereof, which bonds participate in the County and Road District Highway Fund, into one or more series of refunding bonds and may provide that the eligibility of the bonds being refunded shall be distributed among the various series of refunding bonds in such amounts, or none, as may be agreed upon; provided that the eligibility, in dollars and cents, of bonds whose owners do not agree to such distribution shall not be affected thereby. [Acts 1937, 45th Leg., H.B. #1004, § 1.]

Effective April 22, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act providing that the Commissioners Court of any county wherein the Unit-

ed States Government has or shall hereafter purchase or has designated a purchase unit of at least twenty-five (25) per cent in area of the land in said county for reforestation and other purposes may, with the consent of the Board of County and District Road Indebtedness

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and the holders of at least eighty (80) per cent. of the bonds hereinafter described, refund, under the provisions of existing law, the road bonds of any such county or of any road district or political subdivision thereof, which bonds participate in the County and Road District Highway Fund, into one or more series of refunding bonds and may provide that the eligibility

of the bonds being refunded shall be distributed among the various series of refunding bonds in such amounts, or none, as may be agreed upon; provided that the eligibility, in dollars and cents, of bonds whose owners do not agree to such distribution shall not be affected thereby, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1004.]

CHAPTER SEVEN—MUNICIPAL BONDS

Art.

827a. Payment of warrants and vouchers previously issued [New].

Art.

835g. Use for other purposes of bond monies dedicated to specific public improvements in certain cities and towns—election authorizing transfer [New].

Art. 827a. Payment of warrants and vouchers previously issued

That the towns and cities, organized under and governed by the General Laws of the State of Texas, may renew, extend and pay warrants and vouchers executed and delivered for the purpose of securing funds and for the purpose of borrowing funds for the use of such towns and cities prior to June 1, 1932, and all extensions and renewals thereof; provided that the provisions hereof shall apply only where such funds received and borrowed, and used by such towns and cities prior to June 1, 1932, do not exceed the total sum of Eight Thousand (\$8,000.00) Dollars. Such warrants and vouchers may be so issued to bear interest at the rate of not to exceed six per cent (6%) per annum and may be so issued without the necessity of the approval thereof by the Attorney General and without the necessity of a registration thereof by the Comptroller, and may be made payable within one year from date of the issuance or more than one year; taxes may be levied and used to provide for the payment thereof; providing, however, that nothing herein shall affect any pending litigation. [Acts 1937, 45th Leg., S.B. #362, § 1.]

Effective April 15, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act providing for the payment of warrants and vouchers issued by towns and cities in the State of Texas for funds

received and used by such towns and cities in a sum not to exceed Eight Thousand (\$8,000.00) Dollars prior to June 1, 1932, and applying to such warrants and vouchers issued as renewals of such original warrants and vouchers; providing that this Act shall not affect pending litigation, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #362.]

Art. 835g. Use for other purposes of bond monies dedicated to specific public improvement in certain cities and towns; election authorizing transfer

Section 1. That all cities and towns in this State having a population of not less than 15,100 and not more than 15,250, according to the last preceding Federal Census, which have the exclusive control of the schools within its limits, are hereby expressly authorized to utilize bond monies on hand, which have heretofore been authorized by the Council of said City, for public improvements of whatsoever character within said city, for the use and benefit of the public schools within such city or any purpose authorized by City Commission. Provided that before any such transfer shall be authorized the question of the transfer shall be submitted to the property tax paying voters of said city at an election to be held in accordance with the provisions of the law which were

followed in issuing the bonds originally. And no such transfer shall be made unless a majority of the legally qualified voters of said City vote in favor of such transfer. Provided further, that this law shall not apply in any case wherein the funds are being expended upon the public works for which they were voted. It is expressly provided that it shall only apply in case the public improvement for which the bonds were originally issued have never been commenced.

Sec. 2. The City Council, by following the procedure set out in Section 1, is hereby authorized to repurchase and cancel such bonds, if in their discretion the same is for the benefit of the property tax paying voters of the municipality. [Acts 1937, 45th Leg., 2nd C.S., S.B. #2.]

Effective Oct. 14, 1937.

Further provisions of section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing cities or towns in this State of a population of not less than 15,100, or more than 15,250, according to the last preceding Federal Census, such cities having exclusive control of the

schools within its limits, to hold elections for the purpose of applying bond monies already dedicated to public improvements to purposes other than those for which the bond election was authorized or to repurchase and cancel such bonds. Provided that such money may, in the discretion of the governing body, be used for any purpose determined by an election of tax paying voters, and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 2.]

CHAPTER EIGHT—SINKING FUNDS—INVESTMENTS, ETC.

Art.

837a. Investment of sinking funds of county or navigation district in counties in excess of 190,000 [New].

Art. 837a. Investment of sinking funds of county or navigation district in counties in excess of 190,000

This Article shall apply only to and in counties having a population in excess of 190,000 according to the last preceding or any future Federal Census. Investments of sinking funds of any county and Navigation District shall be made in the manner provided by Article 837 and the terms governing the purchase of any securities authorized by this Chapter, shall be reflected by appropriate minutes of the governing body with a complete description of the securities purchased. Upon receipt of said securities and payment therefor the same shall be forthwith delivered to the Depository and in the event there is no Depository, then to the Treasurer of the county, who shall arrange for said securities to be placed in a safety deposit vault or other secure place if no safety deposit vault is available, and the contract of arrangement shall provide simultaneous or joint access to said securities by the Treasurer and the County Auditor. A written record of the securities purchased and deposited in said safety deposit box shall be maintained therein, and shall at all times reflect the condition of the investments. A copy of such record shall be maintained by the Depository. Access to said box shall be only in the presence of the above named officials and officers of the Depository. The bond of the Depository shall secure said securities.

The County Auditor shall prescribe the system of accounts for said security record and the type of reports necessary thereto, and shall not less than once in each six months audit the same and count the securities in said safety deposit vault, and file a report thereof with the governing body of said county or Navigation District respectively, and also with the Depository. The duties herein imposed are official duties and are within the terms of the official bonds of the officers named who shall be

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responsible for the safe deposit and withdrawal of said securities. No securities shall be withdrawn from said safety deposit box except upon the written order of the Commissioners' Court, recorded in its minutes, a copy of which shall be furnished the Depository and the County Auditor. [Acts 1937, 45th Leg., S.B. #304, § 1.]

Effective April 6, 1937.

Section 2 of Acts 1937, 45th Leg., S.B. #304 repeals all conflicting laws and parts of laws and section 3 declares an emergency making the act effective on and after its passage.

Title of Act:

An Act to provide for the care, safe-keeping, and custody of securities in which the sinking funds for the redemption and

payment of outstanding bonds of any county of more than 190,000 population, or a Navigation District in counties of more than 190,000 population, may have been invested by the legally authorized governing body thereof; providing for the audit thereof, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #304.]

TITLE 25—CARRIERS

[6. REGULATION OF MOTOR BUS TRANSPORTATION.]

[Art. 911b. Motor carriers and regulation by Railroad Commission]

Application for permits; special permits

Sec. 6.

(d) The Railroad Commission is hereby given authority to issue upon application to those persons who desire to engage in the business of transporting for hire over the highways of this State, livestock, mohair, wool, milk, livestock feedstuffs, household goods, oil field equipment, and used office furniture and equipment, timber when in its natural state, farm machinery, and grain special permits upon such terms, conditions, and restrictions as the Railroad Commission may deem proper, and to make rules and regulations governing such operations keeping in mind the protection of the highways and the safety of the traveling public; provided, that if this Act or any section, subsection, sentence, clause, or phrase thereof, is held unconstitutional and invalid by reason of the inclusion of this Subsection the Legislature hereby declares that it would have passed this Act and any such Section, Subsection, sentence, clause, or phrase thereof without this Subsection. [As amended Acts 1937, 45th Leg., H.B. #1005, § 1.]

Amendment of 1937, effective May 14, 1937 declared an emergency and provided that the Act should take effect from 1937.

Section 2 of the amendatory Act of and after its passage.

(e) Any permit held, owned, or obtained by any motor carrier operating under the provisions of Subsection (d) of this Section may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such a manner as to render the services demanded in the best interest of the public; the Commission in approving or disapproving any sale, assignment, lease, or transfer of any permit may take into consideration all of the requirements and qualifications of a regular applicant required in this Section, and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided, however, that in case a permit is transferred that the transferee shall pay to the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the permit which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided, further, that any permit obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such permit. Every application filed with the Commission for an order approving the lease, sale, or transfer of any permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10) which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the

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permit is approved or not. [As added Acts 1937, 45th Leg., H.B. #259, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this act repeals all conflicting laws and parts of laws. Section 3 de-

clared an emergency and provided that the act should take effect from and after its passage.

Commission to hear applications, complaints, and compel attendance of witnesses; examiner to hear applications assigned by commission and report thereon

Sec. 14 (a). The Commission shall have the power and authority under this Act to hear and determine all applications of motor carriers; to determine complaints presented to it by such carrier, by any public official, or by any citizen having an interest in the subject matter of the complaint, or it may institute and investigate any matter pertaining to motor carriers upon its own motion. The Commission, or any member thereof, or authorized representative or Examiner of the Commission, shall have power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative or Examiner of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

(b). To expedite the hearing and disposition of applications, the Examiner or authorized representative of the Commission shall have authority under orders of the Commission to hear applications which may be assigned to him by the Commission; after the hearing of an application has been concluded by such representative or Examiner, it shall be his duty promptly to make a written report to the Commission recommending disposition of said application. Such report and recommendation shall be accompanied by a brief narrative statement of the evidence, and shall contain such other information as such representative or Examiner may think advisable, or as may be required by the Commission. Unless required by the Commission, it shall not be necessary for the reporter to transcribe said evidence in full, but it shall be sufficient to make a brief narrative statement giving the correct summary of such evidence; provided, however, the Commission shall have the authority to require said evidence, or any part thereof, to be transcribed in full if deemed advisable or necessary. [As amended Acts 1937, 45th Leg., S.B. #261, § 1.]

Amendment of 1937, effective May 5, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Senate Concurrent Resolution # 65, 45th Leg., reads as follows: "Resolved, By the Senate of the Legislature of the State of Texas, the House of Representatives concurring, that the Motor Carrier Act, and amendments thereto, of this State, shall be construed, pending further legislative enactment with reference thereto, to mean that it shall not be necessary for a private carrier to procure a permit from the Railroad Commission of Texas to transport

his own goods, wares, and merchandise in his own motor vehicles over the highways of this State; that it was not the intention of the Legislature in enacting the Motor Carrier Act of this State, and amendments thereto, to include the regulation of motor vehicles upon the highways of this State owned by persons, firms, and corporations and operated in the transportation of goods, wares, and merchandise owned by the owner of said vehicles; and, be it further

"Resolved, That the fact that a seller of merchandise who transports such merchandise from one place to another in the motor trucks owned by the seller, who adds to the sale price of such mer-

chandise at point of delivery a charge to cover a part or all of the cost of transportation, is not engaged in transporting for hire, as that term is defined in the Motor Carrier Act of this State, and is not subject to the provisions of said Act nor to any rule or regulation promulgated pursuant thereto by the Railroad Commis-

sion of the State of Texas; and, be it further

“Resolved, That a copy of this Resolution be published to the Railroad Commission of Texas, the law enforcement agencies and the courts of this State.”

Approved May 15, 1937.

TITLE 28—CITIES, TOWNS AND VILLAGES

Chap.

21. Housing [New].

CHAPTER ONE—CITIES AND TOWNS

Art.

974d. Validation of incorporation of cities of 600 to 2000 inhabitants incorporated since January 1, 1935 [New].

Art.

974e. Procedure for annexation of unoccupied lands to cities or towns of 4,190 to 4,250 population [New].

Art. 974d. Validation of incorporation of cities of 600 to 2000 inhabitants incorporated since January 1, 1935

That all cities and towns in this State having more than six hundred (600) and less than two thousand (2,000) inhabitants which have heretofore incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925,¹ and which are or may be invalid by reason of having included within their corporate limits lands not used for strictly town purposes, but which cities and towns do not include more than two (2) square miles of territory, are hereby declared to be duly and legally incorporated, and the boundaries of such cities as set forth in their incorporation proceedings are hereby expressly authorized and validated; that all actions, proceedings, and elections done or had in connection with the incorporation or attempted incorporation of such cities and towns are in all things validated; and all subsequent acts of such cities and towns, done or performed as a city or town, are hereby validated and declared as binding as if said cities had been duly and legally incorporated. The provisions of this Act shall apply only to cities and towns incorporated since January 1, 1935. [Acts 1937, 45th Leg., H.B. #999, § 1.]

Effective May 5, 1937.

¹ Articles 961-1269j.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating the incorporation of certain cities and towns of more than six hundred (600) and less than two thousand

(2,000) inhabitants which have heretofore incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925; provided that this Act shall apply only to cities and towns incorporated since January 1, 1935; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #999.]

Art. 974e. Procedure for annexation of unoccupied lands to cities or towns of 4,190 to 4,250 population

That the owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than four thousand one hundred and ninety (4,190) inhabitants, and not more than four thousand two hundred and fifty (4,250) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five and not more than thirty days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter

the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledge as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated. [Acts 1937, 45th Leg., S.B. #509, § 1.]

Effective June 8, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the method for the annexation of unoccupied territory con-

tiguous and adjacent to the city limits of certain incorporated cities or towns, on petition of the owners of all such territory; providing for the recording of such petitions, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #509.]

CHAPTER TWO—OFFICERS AND THEIR ELECTION

Art. 978. [785] [388] [345] Election

Acts 1937, 45th Leg., H.B. #674 validating elections in cities of 4,190 to 4,250 reads as follows:

"Section 1. That all elections, election orders, election proceedings, and all actions and proceedings and contracts taken or made in pursuance thereof, of any city having a population of more than four thousand, one hundred and ninety (4,190) inhabitants, and not more than four thousand, two hundred and fifty (4,250) inhabitants, as shown by the last preceding

Federal Census, which have been heretofore held, passed, or entered into, providing for the extension of corporate limits of such city, are hereby ratified and confirmed; such extension and actions, proceedings, and contracts taken or made in pursuance thereof, shall be deemed and held valid in all respects, to the same extent as if done under legislative authority previously given."

Effective April 9, 1937.

CHAPTER FOUR—THE CITY COUNCIL

Art.
1015e. Licensing dealers in motor vehicles or accessories [New].

Art.
1015f. Motor vehicles, regulation of operation by cities of 230,000 to 232,000 inhabitants [New].

[Art. 1015d. Acquisition of gas systems and distribution of gas by cities]

Section 1. Any city (or), town, or village, whether created by general or special law, including cities operating under the Home Rule Amendment to the State Constitution, which is served neither by an artificial gas distribution system nor by a natural gas distribution system, privately owned or owned by said city, may acquire either by purchase, construction, or otherwise a system designed to prepare, to make available, and to distribute to the inhabitants of the city who may subscribe for such service, artificial gas useful for fuel and lighting purposes, manufactured and compounded substantially in the following manner: lique-

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fied butane, a by-product obtained in the manufacture of gasoline from natural gas, is mixed with a proper proportion of propane, resulting in a liquefied gas capable of being transported in tank cars or otherwise to storage tanks, whence it may be drawn and mixed by automatically controlled mixing machines and released into gas storage tanks, said mixture then being suitable for distribution in mains and laterals to consumers, or manufactured and compounded in any other manner which will result in making available for distribution in mains and laterals, an economically useful gas for domestic and commercial fuel and lighting uses. [As amended Acts 1937, 45th Leg., H.B. #823, § 1.]

Amendment of 1937, effective May 5, 1937, declared an emergency and provided that the act should take effect from and after its passage.

Section 2 of the amendatory act of 1937

Art. 1015e. Licensing dealers in motor vehicles or accessories

Section 1. The power and authority is hereby conferred upon all cities and towns of Texas, whether incorporated under general or special law, to provide suitable ordinance, for the regulation, supervision, control and licensing of all persons, firms or corporations engaged, primarily or incidentally, in the sale, barter, or exchange of motor vehicles, or parts thereof or accessories thereto within the corporate limits of such city, and to fix penalties for the violation thereof; provided that all sums of money collected from such dealers shall be used by the city for the enforcement hereof, and for the enforcement of all provisions of the law regulating the sale, theft or exchange of motor vehicles or parts, or accessories thereto and for no other purpose.

Sec. 2. In case any section, subdivision, paragraph, or sentence of this Act is declared unconstitutional the validity of the remainder of this Act shall not be affected thereby. [Acts 1937, 45th Leg., S.B. #226.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 3 of this act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act conferring upon all incorporated cities and towns of Texas power and authority to regulate, supervise, control and license all persons, firms or corporations engaged in the sale, barter or exchange of motor vehicles or parts thereof

or accessories thereto within the corporate limits of such cities or towns; authorizing such cities and towns to prescribe penalties for the violation of ordinances passed in pursuance hereto; providing that all sums of money collected by such cities and towns under authority of this Act shall be used for the purpose of defraying the expenses of enforcement; declaring the terms of this Act to be severable, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #226.]

Art. 1015f. Motor vehicles, regulation of operation by cities of 230,000 to 232,000 inhabitants

Section 1. All Cities and Towns in the State of Texas, whether incorporated under General or Special Law, including Home Rule Cities, having a population in excess of 230,000 and not exceeding 232,000 inhabitants, according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority to pass an ordinance or ordinances:

(a) Requiring all residents of said City, including corporations having their principal office or place of business in said City, owning a motor vehicle used for the transportation of persons or property, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of all such motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said City after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thoroughfares of said City that such motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, including the State Highway Patrol, and shall have complied with all provisions of said ordinance;

(d) Authorizing City Patrolmen and State Highway Patrolmen in uniform to stop without warrant such drivers of motor vehicles as may fail to comply with said ordinance and issue to the violators such traffic violation tickets as may be provided under said ordinance;

(e) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Testing stations

Sec. 2. Said Cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Fees for testing and inspecting vehicles

Sec. 3. Said Cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One (\$1.00) Dollar per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.

Financing purchase of testing stations

Sec. 4. Said Cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such City, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such City to issue bonds for any purpose authorized by law. Said Cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Partial invalidity

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature

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hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Not applicable to vehicles operating under certificate from Railroad Commission

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers, or semitrailers operated under a certificate or permit from the Railroad Commission of Texas. [Acts 1937, 45th Leg., S.B. #471.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 6 of this act repeals all conflicting laws and parts of laws. Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act empowering and authorizing Cities and Towns in the State of Texas having a population in excess of 230,000 and not exceeding 232,000, according to the last preceding or any future Federal Census, to enact ordinances governing operation of all motor vehicles upon the public thoroughfares of such Cities; providing that said ordinances may require testing and inspecting such motor vehicles at stated times and approval by the testing and inspecting authorities, including

the State Highway Patrol; providing certain exceptions thereto; permitting the fixing of penalties for violating said ordinances; authorizing City Patrolmen and State Highway Patrolmen in uniform to issue traffic tickets for violations of said ordinances; authorizing such Cities to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations to prescribe and collect a fee for such tests and for the disposition of such fees; authorizing said Cities to mortgage or encumber said stations to borrow money and issue warrants to finance said stations and to pledge said fees and receipts for payment of said indebtedness; providing a saving clause; repealing all conflicting laws, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #471.]

CHAPTER FIVE—TAXATION

Art.

- 1027d. Validation of ad valorem tax levies in cities and towns of 3305 to 3445 [New].
 1027e. Validation of ad valorem tax levies in cities and towns of 3000 to 4000 [New].
 1027f. Validation of ad valorem tax levies in cities and towns of 1245 to 1255 population [New].

Art.

- 1042a. Ordinances authorizing assessors or assessors and collectors to prescribe assessment forms, lists, and rolls—cities and towns of 230,000 to 250,000 [New].
 1044a. City councils and trustees of independent school districts authorized to fix compensation of tax assessors and collectors in counties of 43,030 to 43,040 population [New].

Art. 1027d. Validation of ad valorem tax levies in cities and towns of 3305 to 3445

That all levies and assessments of ad valorem taxes heretofore made by the governing body of any city or town incorporated in this State, which are unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by ordinance as required by law; and all assessments of taxes or assessments of property within the limits of any such city or town in this State subject to taxation under the laws of this State, for taxation under such resolution, motion or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and statutory Board of Equalization, as required by law, and which are insufficient or unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for such city or town which are irregular or insufficient because the reports of such equalization were adopted and accepted orally or by other in-

formal action, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record and signed by the proper officials of such governing body, and the same as though such assessments of property within such city or town for taxation purposes had been made in due and complete form, time and manner, and the same as though said equalizations and the reports of the Boards of Equalization acting for such city or town had been made in due and regular form, time and manner, and adopted and accepted in due and regular form. Provided, however, that the terms of this Act shall apply only to incorporated cities and towns having a population of not less than three thousand three hundred five (3,305) inhabitants, and not more than three thousand four hundred forty-five (3,445) inhabitants, according to the last preceding Federal Census; and provided, further, that this Act shall not affect any suit or suits pending in any Court in this State on the effective date of this Act. [Acts 1936, 44th Leg., 3rd C.S., p. 2090, ch. 500, § 1.]

Effective Oct. 31, 1936.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate, ratify, approve, confirm and declare enforceable all levies and assessments of ad valorem taxes heretofore made by incorporated cities and towns in this State which are unenforceable because same were made and adopted by resolution, motion or other informal action, and because of the failure of the governing body of such city or town to appoint the proper and statutory board of equalization; and which are insufficient and unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors as-

sessing such property; and all equalizations of such valuations of such property for taxation purposes made by the boards of equalization acting for such city or town which are irregular or insufficient because such reports were adopted orally or by other informal action; provided, this Act shall not affect any suit or suits pending at the time this Act becomes effective; and provided further, that this Act shall be applicable only to cities and towns having a population of not less than three thousand three hundred five (3,305) inhabitants, and not more than three thousand four hundred forty-five (3,445) inhabitants according to the last preceding Federal Census; and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 2090, ch. 500.]

Art. 1027e. Validation of ad valorem tax levies in cities and towns of 3000 to 4000

Section 1. All levies for ad valorem taxes heretofore made by the governing body of any incorporated City or Town in this State which are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance or which are void and unenforceable because of the failure of the governing bodies of such incorporated City or Town to appoint the proper and statutory Board of Equalization, as required by the laws of this State, or where the City Council, City Commission, or other governing body of such incorporated City or Town has acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated City or Town and which levies are otherwise legally enforceable are hereby validated and that same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and as heard before a properly and legally appointed Board of Equalization; provided that the provisions of this Act shall be applied only to those incorporated Cities and Towns in this State having a population of not less than three thousand (3,000), and not more than four thousand (4,000) according to the last preceding United States Census.

Sec. 2. The provisions of this Act shall not be construed as validating any such levies for ad valorem taxes, and/or proceedings incident

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thereto, where the validity of such levy, and/or proceedings incident thereto, have been attacked or contested in any pending suit or litigation. [Acts 1937, 45th Leg., S.B. #107.]

Effective April 6, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate all ad valorem tax levies heretofore made by incorporated Cities and Towns in the State of Texas which levies are unenforceable because of failure of the governing body of each respective incorporated City and Town to make such levy by Ordinance, and which are unenforceable because of the failure of such governing bodies to appoint the statutory Board of Equalization, or where the City Council, City Commission, or other governing body of such incor-

porated City or Town has acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated City or Town; provided that the provisions of this Act shall be applied only to those incorporated Cities and Towns in this State having a population of not less than three thousand (3,000) and not more than four thousand (4,000) according to the last preceding United States Census; providing this Act shall not validate any levies for ad valorem taxes where the validity of such levy has been contested in any pending suit, and declaring an emergency. [Acts 1937, 45th Leg., S. B. #107.]

Art. 1027f. Validation of ad valorem tax levies in cities and towns of 1245 to 1255 population

That all levies and assessments of ad valorem taxes heretofore made by the governing body of any incorporated city or town in this State, which are voidable or unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by order, as required by the Statutes of this State; and all assessments of taxes or assessments of property within the limits of any incorporated city or town in this State, subject to taxation under the laws of this State, for taxation under such resolution, motion, or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and statutory Board of Equalization, as required by law, and which are insufficient, and voidable, or unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for any such incorporated city or town, which are irregular or insufficient because the reports of such equalizations were adopted and accepted orally, or by other informal action; and the acts of making such equalizations were made orally or informally or in incomplete form, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable, the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record and signed by the proper officials of such governing body, and the same as though such assessments of property within such incorporated cities or towns for taxation purposes had been made in due and complete form, and the same as though said equalizations and the reports of each of the Boards of Equalization, acting for said incorporated cities or towns had been made in due and regular form, and adopted and accepted in due and regular form; and all levies, assessments and equalizations of ad valorem taxes heretofore made in such cities or towns which are insufficient or unenforceable because of the failure of the governing body or any officer of such city or town to prepare, have public hearings on and file a budget are hereby validated and declared enforceable the same as though the budgets had been made, heard and filed; provided that the provisions of this Act shall be applied only to those incorporated cities and towns having a population of not

less than twelve hundred forty-five (1245), and not more than twelve hundred fifty-five (1255), according to the last preceding United States census. Provided, however, that this Act shall not affect any suit now pending in any Court of this State. [Acts 1937, 45th Leg., 2nd C.S., S.B., #29, § 1.]

Effective Nov. 3, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate, ratify, approve, confirm, and declare enforceable, all levies and assessments of ad valorem taxes heretofore made by incorporated cities and towns in the State of Texas because the same were made and adopted by resolution, motion, or other informal action, and because of the failure of the governing body of such city and town to appoint the proper and statutory Board of Equalization; and which are insufficient and voidable, or unenforceable on account of technical irregularities in the manner of preparing the books and reports of assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Boards

of Equalization acting for any such city or town, which are irregular or insufficient because the reports of such equalizations were adopted and accepted orally, or by other informal action; and the acts of making such equalizations were made orally or by other informal action; or in incomplete form; and because of the failure of the governing body or any officer of such city or town to prepare, have public hearings on, and file a budget; and providing further that this Act shall apply only to those incorporated cities and towns in this State having a population of not less than twelve hundred forty-five (1,245) and not more than twelve hundred fifty-five (1,255), according to the last preceding Federal Census; providing this Act shall not affect suits pending at the time same becomes effective; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S. B. # 29.]

Art. 1042a. Ordinances authorizing assessors, or assessors and collectors to prescribe assessment forms, lists, and rolls; cities and towns of 230,000 to 250,000

That all cities and towns in the State of Texas whether incorporated under General or Special Law, including Home Rule Cities, having a population in excess of two hundred and thirty thousand (230,000) and not more than two hundred and fifty thousand (250,000), according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority, any law to the contrary notwithstanding, to pass an ordinance or ordinances:

(a) Empowering the assessor of taxes, or the assessor and collector of taxes, as the case may be, to prescribe assessment forms, lists, or statements for rendering or listing property for taxation by the taxpayer in such city or town, which said assessment forms, lists, or statements shall provide and contain sufficient space and appropriate headings as will make possible their use as a combination assessment-roll-tax-roll, which are now required by law to be made separately, and to provide for the binding of such assessment-roll-tax-roll lists, forms, or statements, into one series of rolls, alphabetically arranged, without reference as to whether such listing or rendering is made by the taxpayer or by the assessor-collector. [Acts 1937, 45th Leg., 2nd C.S., H.B. #49, § 1.]

Effective Oct. 23, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act empowering and authorizing cities and towns in the State of Texas having a population in excess of two hundred and thirty thousand (230,000) and not more than two hundred and fifty thousand (250,000), according to the last preceding or any future Federal Census, to enact ordinances authorizing city and town as-

sessors, or assessors and collectors, to prescribe such assessment forms, lists, or statements for rendering property as will also serve as a tax roll without the necessity of recompiling such tax roll from the original assessment roll; authorizing the binding of such assessment forms, lists, or statements and combination tax roll, regardless of whether rendered or unrendered, into one roll in alphabetical order; providing a saving clause; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 49.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 1044a. City councils and trustees of independent school districts authorized to fix compensation of tax assessors and collectors in counties of 43,030 to 43,040 population

Section 1. The City Councils of all cities and towns within this State may at their option increase the compensation of city tax assessors and collectors in any sum not to exceed Three Hundred Dollars (\$300) per annum in addition to the amount that is now allowed as compensation to tax assessors and collectors of said cities and towns.

Sec. 2. The trustees of any independent school district within said counties may at their option increase the compensation of tax assessors and collectors of taxes of said independent school districts in addition to the amount now paid not to exceed the sum of Three Hundred Dollars (\$300) per annum in all counties with a population of not less than forty-three thousand and thirty (43,030) and not more than forty-three thousand and forty (43,040), according to the last Federal Census. [Acts 1937, 45th Leg., 2nd C.S., H.B. #143.]

Effective Nov. 3, 1937.

Section 3 repeals all conflicting laws and parts of laws; section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act permitting the City Councils of all cities and towns in this State and the trustees of independent school districts to fix the compensation of the tax assessors

and collectors in said cities, towns, and independent school districts in counties with a population of not less than forty-three thousand and thirty (43,030) and not more than forty-three thousand and forty (43,040), according to the last Federal Census; repealing all laws in conflict; and declaring an emergency. [Acts 1937, 45th Leg. 2nd C.S., H.B. # 143.]

Art. 1048. [945-955] Equalization board

The councils of cities and towns incorporated under the General Laws shall within their discretion act as a Board of Equalization. Said councils of such cities and towns shall annually at their first meeting or as soon thereafter as practical exercise such discretion, and if they so determine they shall have the authority to appoint three (3) commissioners, each a qualified voter, a resident, and property owner of the city or town for which he is appointed who shall be styled the Board of Equalization. At the same meeting said council shall by ordinance fix the time for the meeting of such Board. Before said Board enters upon its duties, it shall be sworn to faithfully and impartially discharge all duties incumbent upon it by law as such Board. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #110, § 1.]

Effective Oct. 29, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

CHAPTER NINE—STREET IMPROVEMENTS

[Art. 1105b. Street improvements and assessments in cities]

Assessments on abutting property; certificates

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess all the cost of constructing, reconstructing, repairing, and realigning, curbs, gutters, and sidewalks, and not exceeding nine-tenths of the estimated cost of such improvements, exclusive of curbs, gutters, and sidewalks, against property abutting upon the highway or portion thereof ordered to be improved, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe

the rate of interest thereon not to exceed eight (8) per cent per annum. Any assessment against abutting property shall be a first and prior lien thereon from the date improvements are ordered, and shall be a personal liability and charge against the true owners of such property at said date, whether named or not. The governing body shall have power to cause to be issued in the name of the city assignable certificates in evidence of assessments levied declaring the lien upon the property and the liability of the true owner or owners thereof whether correctly named or not and to fix the terms and conditions of such certificates.

If any such certificate shall recite substantially that the proceedings with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fee, if incurred, and shall be first and prior lien on the property assessed, superior to all other liens and claims except State, county, school district, and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed. [As amended, Acts 1937, 45th Leg., H.B. #207, § 1.]

Effective June 9, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES

Art.

- 1109a—1. Validation of Waterworks Revenue Refunding Bonds and Sewer System Revenue Refunding Bond [New].
- 1109d. Cities and towns authorized to contract with Water Improvement or Water Control and Improvement District for water supply [New].

2. ENCUMBERED CITY SYSTEM

- 1114d. Validation of bonds for swimming pools [New].

Art.

- 1118h. Validating bonds of cities of over 15,000 population [New].
- 1118i. Validating bonds of cities in counties of less than 80,000 and more than 70,000 [New].
- 1118j. Validating bonds and proceedings for loans or grants from Federal government in cities and towns of not over 3,000 population [New].
- 1118k. Validating bonds in cities of over 160,000 population [New].
- 1118l. Validating bonds and bond elections in cities and towns of 2601 and 2632 population [New].

1. CITY OWNED UTILITIES

Art. 1108. [769 to 722*] Public utilities

3. To extend the lines of such systems outside of the limits of such towns or cities and to sell water, sewer, gas, and electric light and power privileges or service to any person or corporation outside of the limits of such towns or cities, or permit them to connect therewith under contract with such town or city under such terms and conditions as may appear

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to be for the best interest of such town or city; provided that no electric lines shall, for the purposes stated in this section, be extended into the corporate limits of another incorporated town or city. [As amended Acts 1935, 44th Leg., p. 496, ch. 207, § 1; Acts 1937, 45th Leg., H.B. #132, § 1.]

* Bracketed numbers should be 769-772.

Amendment of 1937, effective May 24, 1937.

Section 2 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

Art. 1109a—1. Validation of Waterworks Revenue Refunding Bonds and Sewer System Revenue Refunding Bond

That all Waterworks System Revenue Refunding Bonds and all Sewer System Revenue Refunding Bonds heretofore authorized, issued, exchanged, and delivered by cities in Texas operating under the provisions of Special Charters and which refunding bonds have been heretofore validated and confirmed by a final decree of a United States District Court in Texas, be, and the same are hereby in all things ratified, validated, and confirmed, and such refunding bonds so authorized, issued, exchanged, and delivered, shall hereafter be and constitute valid and binding obligations upon the revenues of such systems. [Acts 1937, 45th Leg., 2nd C.S., H.B. #151, § 1.]

Effective Nov. 3, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act ratifying, validating, and confirming all Waterworks System Revenue Refunding Bonds heretofore authorized, issued, exchanged, and delivered by cities in Texas operating under the provisions of

Special Charters and which refunding bonds have been heretofore validated and confirmed by a final decree of a United States District Court in Texas; and providing that such refunding bonds so authorized, issued, exchanged, and delivered shall be and constitute valid and binding obligations upon the revenues of such systems; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 151.]

Art. 1109d. Cities and towns authorized to contract with Water Improvement or Water Control and Improvement District for water supply

Section 1. Any city or town in this state may contract with any water Improvement District or Water Control and Improvement District deriving its powers from Article XVI, Section 59, of the Constitution of Texas and any such District may contract with any such City or Town, for supplying water to said City. Such contract may run for such length of time as may be agreed upon between the Board of Directors of said District and the governing body of said City, not to exceed 30 years from the date of the contract, but said contract may also provide that it shall run until all warrants, notes or bonds, issued by such District for the acquisition of facilities necessary or convenient to enable the District to supply the City with water, have been paid in full.

Payment for water out of water system revenues exclusively

Sec. 2. Payment for water so supplied shall be made out of the water system revenues of such city or town, and the District shall never have the right to demand payment out of moneys raised or to be raised by taxation, and payments under the contracts herein authorized may be secured by a first lien on, and an irrevocable pledge of the revenues of said water system.

Election approving contract; notice of election—ballots

Sec. 3. Provided, however, that no such contract shall become binding until approved by a majority vote of the qualified electors in such City or Town at an election held for that purpose. Such election may be called by the governing body of the city on its own motion. Notice of such election shall be published in a newspaper of general circulation published in such City or Town once each week for two consecutive weeks the first of which publications shall be at least ten full days prior to the day set for the election, provided, that if no newspaper is published in such City or Town, notice of said election shall be given by posting notice thereof in each of the voting precincts of such City or Town and one at the City Hall. The notice of election shall state the date upon which the same shall be held, and shall state the proposition to be voted upon in such form as the governing body shall prescribe, but the notice need not set out the contract at length, or detail its provisions. For ten days next, preceding the election the proposed contract shall be on file in the office of the City Secretary and may be examined by any person. The governing body of the City shall prescribe the form of the ballots.

General election law to govern elections; qualification of electors; returns

Sec. 4. Except as otherwise provided in this Act, said election shall be conducted according to the general election law. Only qualified electors who own taxable property in the City and who have duly rendered the same for taxation, shall be qualified to vote. Returns of said election shall be made to the governing body of the city.

Canvass of returns; effect of election

Sec. 5. The governing body shall canvass the returns of said election as soon as practicable. If a majority of the votes cast at such election are in favor of approving the contract, the contract shall at once become binding and effective; if a majority of the votes are against the contract, the contract shall not become effective.

Construction or acquiring of canals, reservoirs, basins, pipelines, filtration plants, and other equipment and supplies

Sec. 6. Any such district may construct, or otherwise acquire and equip, such canals, reservoirs, basins, pipelines, conduits, filtration, and aeration plants, and all other equipment and supplies, and may acquire by purchase, eminent domain, or otherwise all such property as is necessary or convenient for the purpose of supplying water to a city as provided herein.

Issuance of warrants, notes, or bonds; refunding or reissuing bonds

Sec. 7. Any such District may issue warrants, notes or bonds to provide for the acquisition of the facilities necessary or convenient for supplying water to such city or town, and to secure such warrants, notes or bonds by a pledge of the revenues to be derived under any such contract then in existence or thereafter to be made for supplying water to such city or town. Where tax supported bonds hereafter are voted for such purpose, such bonds may be issued, secured by the pledge of such tax levy and by the pledge of such revenues or by either of such pledges. In instances where tax supported bonds have been voted heretofore in any such district but all or part thereof have not yet been sold, such unsold bonds may be issued and sold and the proceeds or any part thereof may be used for such purpose without the necessity of another election, and in such instances the District may secure such bonds by a levy of such taxes and by a pledge of the revenues to be derived under any

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such contract for supplying water either then in existence or thereafter to be made, or may secure said bonds by either of such methods. Bonds of such Districts heretofore voted may be refunded or re-issued without an election and such refunding or re-issued bonds may be secured as in this section provided.

Partial invalidity

Sec. 8. In the event any provision of this Act shall be in conflict with any other law the provisions of this Act shall be effective. [Acts 1937, 45th Leg., 2nd C.S., S.B. #26.]

Effective Oct. 22, 1937.

Section 9 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Cities and Towns to make contracts with Water Improvement and Water Control and Improvement Districts deriving their powers under Article XVI, Section 59, of the Constitution for water supply, fixing the maximum term of such contracts, limiting the liabilities of Cities and Towns under such contracts, making an election in such Cities and Towns a prerequisite to the making of such contracts, prescribing the method of calling and holding such elections and qualifications of voters; authorizing such districts to make such improvements needed for carrying out such contracts; au-

thorizing such Districts to secure their notes, warrants and bonds by pledging the revenues under such contracts, and to secure tax-supported bonds by the additional pledge of such revenues; providing that tax supported bonds heretofore voted but not yet issued may be issued and sold and the proceeds used for purposes necessary for the carrying out of such contracts without the necessity of another election, and that such bonds may be secured by a levy of taxes and by a pledge of revenues or by either such method; providing for issuance of refunding or re-issued bonds with authority to secure them likewise; providing that if this Act shall be in conflict with any other Act, the provisions of this Act shall be effective; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 26.]

2. ENCUMBERED CITY SYSTEM

Art. 1114d. Validation of bonds for swimming pools

Section 1. That all bonds heretofore voted and issued or heretofore voted and not yet issued by any city or town in this State for the purpose of constructing swimming pools in said city or town, are hereby in all things validated, confirmed, and ratified as though they had been legally authorized in the first instance.

Sec. 2. The provisions of this Act shall not operate to validate any bonds or bond elections which, at the time of the effective date of this Act, are involved in litigation, or the validity of which said bonds or bond elections may be attacked in any suit or litigation instituted within thirty (30) days after the effective date of this Act. [Acts 1937, 45th Leg., 2nd C.S., H.B. #127:]

Effective Nov. 3, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating, ratifying, and confirming all bond issues heretofore voted

and issued or heretofore voted and not yet issued, of all cities and towns in this State, for the purpose of constructing swimming pools; providing certain exceptions; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 127.]

Art. 1118c. Order of appropriation of revenues of municipal public utility systems

Section 1. In making up the annual appropriation of the income and revenue of any waterworks system, electric light plant or system, sewer system, or other public utility system, service, or enterprise now or that may be hereafter owned and operated by any city or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants

or less, according to the last preceding Federal Census, and owning and operating its municipal light system and municipal waterworks system in this State, the governing body thereof shall first make provision for the maintenance and operating expenses of such system, service, or enterprise, and shall then make provision for payment of principal and interest of any indebtedness outstanding against such system, service, or enterprise, and may then make such appropriations as the remaining income and revenue of such system, service, or enterprise may justify, to be appropriated among the respective departments of the municipal government, or otherwise appropriated for public uses, as such governing body may deem best; provided this Act shall not apply to municipally owned utilities or enterprises, the income from which has heretofore been pledged to secure payment of bonds or other indebtedness.

Sec. 2. Nothing in this Act shall restrict the power and authority of any such city or town to issue bonds, notes, or warrants, payable from revenues other than taxation, for the purposes, in the manner, and under the restrictions and limitations provided by the laws of this State relative to the issuance of such obligations; and all the provisions of such laws shall apply to and govern such city or town and the governing authorities thereof, except as herein otherwise provided.

Sec. 3. The benefits of this Act shall apply to any city or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants or less, according to the last preceding Federal Census, and owning and operating its municipal light system and municipal waterworks system and the terms thereof extend to the same, when the governing body thereof shall submit the question of the adoption or rejection hereof, to a vote of the resident property taxpayers who are qualified voters of said city or town at a special election called for the purpose by the governing body of said city or town. And said election shall be held as nearly as possible in compliance with the laws with reference to regular municipal elections in said city or town; but said governing authority is hereby empowered by resolution to order said election and prescribe the time and manner of holding the same. Said body shall canvass and determine the result of such election and if a majority of the voters voting upon the question of the adoption of this Act at such election, shall vote to adopt the same, the result of the election shall by said governing body be entered upon their minutes, and thereupon all the terms hereof shall be applicable to and govern such city or town adopting the same; provided, that nothing in this Act shall ever be construed to repeal or modify any of the provisions of Article 1112, of the Revised Civil Statutes of Texas, of 1925. [Acts 1934, 43rd Leg., 4th C.S., p. 49, ch. 18, amended Acts 1937, 45th Leg., 2nd C.S., H.B. #164.]

Effective Nov. 3, 1937.

Section 4 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 1118h. Validating bonds of cities of over 15,000 population

Section 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than fifteen thousand (15,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such election shall be held

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not more than thirty (30) days from the time of such election order are concerned; and irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be a valid subsisting indebtedness of said cities.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any bonds issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation, or in any suit or litigation which may be instituted within sixty (60) days after the effective date of this Act. [Acts 1937, 45th Leg., S. B. # 44.]

Effective Feb. 4, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating, confirming, approving and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than fifteen thousand (15,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such elections shall be held not more than thirty (30) days from

the date of the election order are concerned: provided that the irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be valid subsisting indebtedness of said cities; providing that this Act shall not apply to any proceedings or bonds issued thereunder where the validity of such is being contested or attacked in any pending suit or any litigation instituted within sixty (60) days after the effective date of this Act, and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 44.]

Art. 1118i. Validating bonds of cities in counties of less than 80,000 and more than 70,000

That in all cases where any city in the State of Texas which operates under the General Laws of Texas and which city is located in any county having a population of less than 80,000 and more than 70,000 according to the last preceding United States Census and is not operating pursuant to a home rule charter and which such city has heretofore and subsequent to the enactment of Chapter 382,¹ Acts of the First Called Session of the Forty-fourth Legislature of Texas, 1935, submitted to the qualified electors of said city the question of the issuance of the bonds of such city pursuant to the provisions of Articles 1111 et seq., of the Revised Civil Statutes of the State of Texas, said bonds to be payable solely from the revenues derived from operation of the city's waterworks system, and where a majority of the qualified voters of said city voting at said election on said proposition has voted in favor of the issuance of such bonds and in favor of pledging the revenues of said system for the payment of such bonds, said election and all proceedings heretofore had in connection with the calling and holding of said election and in connection with the authorization and sale of such bonds are hereby validated, ratified and confirmed, despite any irregularity which may have occurred therein or despite any failure to observe any of the pertinent laws of the State of Texas, and said city is hereby authorized to complete its proceedings for the authorization and delivery of such bonds and to deliver such bonds upon receipt of the purchase price thereof, and such bonds when approved by the Attorney General, registered by the State Comptroller of Public Accounts, sold at not less than par and accrued interest and delivered are hereby

declared to be and shall be the valid and legal obligations of said city in accordance with the terms thereof, and shall be paid as to both principal and interest from the revenues of the waterworks system of said city in accordance with the provisions of the proceedings so authorizing the bonds. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law. [Acts 1937, 45th Leg., S. B. # 174, § 1.]

1 Article 704.

Effective Feb. 26, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating certain bonds of cities in the State of Texas operating under the General Laws of the State and located in counties having a population of less than 80,000 and more than 70,000 according to the last preceding United States Census, which bonds have been heretofore voted subsequent to enactment of Chapter 382, Acts of the First Called Session of the

Forty-fourth Legislature of Texas, 1935, and which bonds are payable out of the revenues to be derived from the operation of the city's water works system; authorizing the city to complete its proceedings for the authorization, sale, and delivery of such bonds; provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued there under, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law; and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 174.]

Art. 1118j. Validating bonds and proceedings for loans or grants from Federal government in cities and towns of not over 3,000 population

Section 1. That all proceedings heretofore had by the governing bodies of all cities and towns, having a population of not more than three thousand (3,000), according to the preceding Federal Census, in the issuance and sale of Revenue bonds, notes or warrants issued under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, as amended, to aid in financing any undertaking, for which a loan or grant has been made by the United States through the Public Works Administration, or any other agency or department of the Government of the United States, in which the only objection to the validity of said bonds is that such election was ordered and notice thereof given under the provisions of Article 704, Revised Civil Statutes of 1925 prior to the amendment of October 1935, are hereby in that respectively validated, confirmed, approved and legalized, and any such bonds, notes or warrants heretofore sold, or heretofore authorized but not yet delivered, are in all things fully validated, confirmed and approved, and such bonds, notes or warrants are hereby declared to be the valid and binding special obligations of such cities and towns of said population payable from sources other than taxation. All orders, resolutions and ordinances authorizing the issuance of any such revenue bonds by said cities and towns of said population, and setting aside and pledging the revenues of any light system, water system, sewer system or sanitary disposal equipment system, either or all are hereby in all things validated, confirmed and approved, and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereon, where the validity thereof has been contested or attacked in any suit or pending litigation. [Acts 1937, 45th Leg., H.B. #650.]

Effective May 10, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating and approving all proceedings had by cities and towns in the State of Texas having a popula-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tion of not more than three thousand (3,000) according to the preceding Federal Census, in the issuance and sale of revenue obligations under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas of 1925 as amended, to aid in financing any undertaking for which a loan or grant has been made by the United States through the Works Progress Administration, or any other governmental agency, in which the only objection to the validity of said bonds is that such election was ordered and notice thereof

given under the provisions of Article 704, Revised Civil Statutes of Texas of 1925 prior to the amendment of October 1935, declaring that such bonds, notes or warrants shall be valid and binding special obligations of such cities or towns, and validating the pledge of revenues to the payment of said obligations; providing this Act shall not apply to any proceedings or obligations, the validity of which has been contested in any pending suit or litigation; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #650.]

Art. 1118k. Validating bonds in cities of over 160,000 population

All bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than one hundred sixty thousand (160,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such election shall be held not more than thirty (30) days from the time of such election order, and that notice of such election shall be published on the same day of each of two (2) successive weeks in a newspaper, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election, are concerned; and irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be a valid subsisting indebtedness of said cities. [Acts 1937, 45th Leg. 1st C.S., S.B. # 11, § 1.]

Effective July 6, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating, confirming, approving and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than one hundred sixty thousand (160,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such elections shall be held not more than

thirty (30) days from the date of the election order, and that notice of such election shall be published on the same day of each of two successive weeks in a newspaper, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election, are concerned; provided that the irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be valid subsisting indebtedness of said cities, and declaring an emergency. [Acts 1937, 45th Leg. 1st C. S., S.B. # 11.]

Art. 1118l. Validating bonds and bond elections in cities and towns of 2601 to 2632 population

Section 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities and towns having less than two thousand six hundred thirty-two (2632) population and more than two thousand six hundred one (2601) population according to the last preceding Federal Census, and all elections held in such cities and towns for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated, ratified, confirmed and

legalized insofar as any irregularities in following the requirements of the provisions of the general law governing the form of election order, notice, ballot and canvassing of returns of such elections are concerned; and, if such bonds are valid in other respects, when same are approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, shall constitute valid and binding obligations of said cities and towns.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any bonds issued thereunder the validity of which is being contested or attacked in any suit pending at the time this Act takes effect. [Acts 1937, 45th Leg. 1st C.S., S.B. # 17.]

Effective June 28, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating, ratifying, confirming and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities and towns having less than two thousand six hundred thirty-two (2632) population and more than twenty-six hundred one (2601) population according to the last preceding Federal Census, and all bond elections held in such cities and towns for the purpose of voting such bonds insofar as any irregularities in fol-

lowing the requirements of the general law governing the form of election order, notice, ballot and canvassing of returns of such elections are concerned; and providing that if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, shall constitute legal and binding obligations of such cities and towns; providing that this Act shall not apply to any proceedings or bonds, the validity of which is being contested in any suit pending at the effective date of this Act, and declaring an emergency. [Acts 1937, 45th Leg. 1st C.S., S.B. # 17.]

3. CITY REGULATION

Art. 1119. [1018] Rates prescribed, etc.

The Governing body of all incorporated cities and towns in this State incorporated under the General Laws thereof shall have the power to regulate, by ordinance, the rates and compensation to be charged by all persons, companies, or corporations using the streets and public grounds of said city or town, and engaged in furnishing water, gas, telephone, light, power, or sewerage service to the public, and also to prescribe rules and regulations under which such commodities shall be furnished, and service rendered, and to fix penalties to enforce such charges, rules, and regulations. The governing body shall not prescribe any rate or compensation which will yield more than a fair return upon the fair value of the property used and useful in rendering its service to the public, but which return in no event shall ever exceed eight (8) per cent per annum. [As amended Acts 1937, 45th Leg., H.B. #131, § 1.]

Amendment of 1937, effective April 12, 1937.

Section 2 of the amendatory Act of 1937 repeals all conflicting laws and parts of laws, section 3 provides that if any

provision is held unconstitutional, such invalidity shall not affect the other provisions and section 4 declares an emergency making the act effective on and after its passage.

CHAPTER TWELVE—COMMISSION FORM OF GOVERNMENT

Art. 1164. [1076] Meetings and salary

Said Board shall hold at least one regular monthly meeting, and the mayor or two (2) commissioners may call as many special meetings as may be necessary to attend to the municipal business. Each commissioner and said mayor shall receive for his service Five Dollars (\$5) per day for each regular meeting, and Three Dollars (\$3) per day for each spe-

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cial meeting. The mayor or any commissioner shall not receive pay for more than five (5) special meetings in any one month. In lieu of such per diem said 'Board of Commissioners' of any such town or city with not less than two thousand (2,000) population, may fix the salary to be received by the mayor and commissioners, not to exceed the sum of Twelve Hundred Dollars (\$1200) per year for said mayor and Six Hundred Dollars (\$600) per year for each commissioner.

In lieu of such per diem said "Board of Commissioners" of any such town or city containing less than two thousand (2,000) population, according to the last preceding Federal Census, may fix salary to be received by the mayor not to exceed the sum of Six Hundred Dollars (\$600) per year. [As amended Acts 1937, 45th Leg., H.B. #1064, § 1.]

Effective May 13, 1937.

Section 2 of this Act declared an emer-

gency and provided that the Act should take effect from and after its passage.

CHAPTER THIRTEEN—HOME RULE

Art.

1174c. Validating annexation of adjacent territory [New].

1174d. Validation of annexation proceed-

Art.

ings in Home Rule cities of 8,920 to 9,580 population [New].

1175b. Inspection and test of motor vehicles [New].

Art. 1174c. Validating annexation of adjacent territory

Section 1. All elections, election orders, election proceedings, city ordinances and amendments to charters annexing adjacent territory to, or extending and prescribing the corporate limitations of any home rule city that has adopted a charter under Article 11, Section 5, of the Constitution of the State of Texas, and the provisions of Chapter 147, Acts of the Regular Session of the Thirty-third Legislature of the State of Texas, 1913, and Article 1175 of Vernon's Annotated Texas Statutes, by which said city did not in fact have separate elections and separate election boxes for the city voters and the territory to be annexed, and did not comply with other requirements of the law, be and the same are hereby validated and confirmed.

Sec. 2. The city ordinances and charter amendments of all home rule cities in the class described in the foregoing section, fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated. [Acts 1936, 44th Leg., 3rd C.S., p. 2102, ch. 506.]

Effective Oct. 31, 1936.

Art. 1174d. Validation of annexation proceedings in Home Rule cities of 8,920 to 9,580 population

That all ordinances and proceedings and all actions, proceedings, and contracts taken or made in pursuance thereof, heretofore undertaken by virtue of Article 1175, Revised Civil Statutes of Texas of 1925, providing for the extension of the corporate limits of Home Rule cities by any city which at such time was acting under a Home Rule charter, and which such ordinances, actions, proceedings, and contracts were undertaken prior to April 1, 1930, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory by extension shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given. The provisions of this Act shall apply only to cities having a pop-

ulation of not less than eight thousand, nine hundred and twenty (8,920) nor more than nine thousand, five hundred and eighty (9,580), according to the last preceding Federal Census. [Acts 1937, 45th Leg., 2nd C.S., H.B. #69, § 1.]

Effective Oct. 27, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate annexation proceedings of Home Rule cities where such an-

nexation proceedings took place prior to April 1, 1930; and validating all proceedings, actions, and contracts and the exercise of dominion and governmental functions over such annexed territory; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 69.]

Art. 1175b. Inspection and test of motor vehicles

Section 1. All cities and towns in the State of Texas, whether incorporated under general or special law, including home rule cities, having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority to pass an ordinance or ordinances;

(a) Requiring all residents of said city, including corporations having their principal office or place of business in said city, owning a motor vehicle used for the transportation of persons or property, or both, and all persons using the streets, alleys, or other public thoroughfares of said city upon which to operate a motor vehicle, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of all motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said city after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thoroughfares of said city that motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, and shall have complied with all provisions of said ordinance:

(d) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Sec. 2. Said cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Sec. 3. Said cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One Dollar (\$1) per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.

Sec. 4. Said cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever

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be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. Said cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.

Sec. 6. All laws and parts of laws in conflict herewith shall be and the same are hereby repealed to the extent of said conflict only. [Acts 1937, 45th Leg., H.B. #147.]

Effective April 6, 1937.

Section 7 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act empowering and authorizing cities and towns in the State of Texas having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding or any future Federal Census, to enact ordinances governing operation of all motor vehicles upon the public thoroughfares of such cities; providing that said ordinances may require testing and inspecting such motor vehicles at stated times and approval by the testing and inspecting au-

thorities; providing certain exceptions thereto; permitting the fixing of penalties for violating said ordinances; authorizing such cities to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations to prescribe and collect a fee for such tests and for the disposition of such fees; authorizing said cities to mortgage or encumber said stations to borrow money and issue warrants to finance said stations and to pledge said fees and receipts for payment of said indebtedness; providing a saving clause; repealing all conflicting laws, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 147.]

Art. 1176a. Code of Civil or Criminal ordinances in cities of more than 100,000

Section 1. That any city in this State having a population of more than forty thousand (40,000), according to the then preceding United States Census, whether incorporated under General or Special Law, shall have the power to codify its civil and criminal ordinances, and adopt a civil and criminal code of ordinances, together with appropriate penalties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisites of law. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #153, § 1.]

Effective 90 days after Oct. 26, 1937, date of adjournment.

Section 2 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

[Art. 1182e. Exposition or convention halls in cities of 290,000]

[Provision for trustee]

Sec. 6. A contract of encumbrance may provide for the selection of a Trustee to make sale upon the default of principal or interest or otherwise according to the terms of such contract and for the selection of his successor, if disqualified or failing to act, and for collection of fees not

exceeding five (5) per cent of the principal. If such contract provides for the appointment of a Receiver, the Trustee, in the event of any default in the payment of principal and interest or otherwise under such contract, continuing for a period of thirty (30) days, may apply to the proper Court for the appointment of a Receiver. A Receiver so appointed may, subject to the order of the Court, enter and take possession of the properties and operate and maintain them and apply the net revenue to the liquidation of the debt. The Receiver may maintain and operate the properties and may use or rent any part of the properties for any purpose consistent with the continued use of the major part as an exposition and convention hall or, if so authorized by the Court, may rent all the properties for any lawful use, and all of such properties shall continue to be free from taxation until the indebtedness secured thereby is fully paid. The Receiver may rent any part or all of such properties to the city, and the city may lease the same from the Receiver. All rights of the Receiver and of any lessees or other persons holding under him shall cease when the indebtedness is paid or if the Trustee, in the exercise of its powers, shall sell the properties, provided that the Trustees may agree with any lessee of the properties from the Receiver not to sell the property during the term of his lease; provided also that if the principal of all the bonds shall not have been declared due or if such declaration being made shall have been annulled under the provisions of the contract of encumbrance, the rights of the Receiver may be terminated and the Receiver discharged by remedy or waiver of the default and upon application to the Court, and in such event the rights of any lessee from the Receiver shall be subject to adjudication and may be terminated or adjusted by the Court. [As amended Acts 1937, 45th Leg., H.B. #631, § 1.]

Amendment of 1937, effective May 12, 1937.

Section 3 of the amendatory Act de-

clared an emergency and provided that the Act should take effect from and after its passage.

[Validation of proceedings, mortgages, and bonds]

Sec. 6-a. Any proceedings taken by any such city under such Act and any mortgage or bonds heretofore authorized reciting the authority of such Act are hereby in all respects validated and confirmed as fully for all purposes as though duly and legally taken and authorized under such Act as now amended. [As added Acts 1937, 45th Leg., H.B. #631, § 2.]

Effective May 12, 1937.

CHAPTER TWENTY-ONE—HOUSING [NEW]

Art.

1269k. Housing Authorities Law; short title

1269l. Housing Cooperation Law; short title.

Art. 1269k. Housing Authorities Law; short title

Section 1. This Act may be referred to as the "Housing Authorities Law."

Finding and declaration of necessity

Sec. 2. It is hereby declared: (a) that there exist in the State insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the State there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low in-

come can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the residents of the State and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; (b) that these slum areas cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income (as herein defined) would therefore not be competitive with private enterprise; (c) that the clearance, replanning, and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of State concern; that it is in the public interest that work on such projects be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted; is hereby declared as a matter of legislative determination.

Definitions

Sec. 3. Definitions. The following terms, wherever used or referred to in this Act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "Housing Authority" shall mean any of the public corporations created by Section 4 of this Act.

(b) "City" shall mean any city.

"The City" shall mean the particular city for which a particular housing authority is created.

(c) "Governing Body" shall mean the Council or Commission of the city.

(d) "Mayor" shall mean the Mayor of the city or the officer thereof charged with the duties customarily imposed on the Mayor or executive head of the city.

(e) "Clerk" shall mean the clerk of the city or the officer charged with the duties customarily imposed on such clerk.

(f) "Area of operation" shall include the city and the area within five (5) miles of the territorial boundaries thereof; provided, however, that the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city as herein defined.

(g) "Federal Government" shall include the United States of America, the United States Housing Authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors, are detrimental to safety, health, and morals.

(i) "Housing Project" shall mean any work or undertaking: (1) to demolish, clear, or remove buildings from any slum area; such work or undertaking may embrace the adaption of such area to public purposes, including parks or other recreational or community purposes; or (2) to provide decent, safe, and sanitary urban or rural dwellings, apartments,

or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; or (3) to accomplish a combination of the foregoing. The term 'housing project' also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements and all other work in connection therewith.

(j) "Persons of low income" shall mean families or persons who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

(k) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this Act.

(l) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(m) "Obligee of the authority" or "obligee" shall include any bondholder, trustee, or trustees for any bondholder, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

Creation of housing authorities

Sec. 4. In each city (as herein defined) of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the city; provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such city. The governing body may upon its own motion, or shall upon the filing of a petition signed by one hundred (100) qualified voters and residents of the city, make a determination as to whether or not there is need for an authority to function in the city.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the city, if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such city or (b) that there is a shortage of safe or sanitary dwelling accommodations in such city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to

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transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action, or proceeding.

Appointment, qualifications, and tenure of commissioners

Sec. 5. When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the Mayor of such adoption. Upon receiving such notice, the Mayor shall appoint five (5) persons as commissioners of the authority created for said city. Two (2) of the commissioners who are first so appointed shall be designated to serve for terms of one year and the remaining commissioners shall be designated to serve for terms of two (2) years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of two (2) years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expense, including traveling expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Three (3) commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The Mayor shall designate which of the commissioners appointed shall be the first chairman, but when the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its own commissioners a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Interested commissioners or employees

Sec. 6. No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered up-

on the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

Removal of commissioners

Sec. 7. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the Mayor, but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten (10) days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

Powers of authority

Sec. 8. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with this Act, to carry into effect the powers and purposes of the authority.

(b) Within its area of operation: to prepare, carry out, acquire, lease, and operate housing projects; to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this Act or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with the requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and (subject to the limitations contained in this Act) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure insurance or guarantees from the Federal Government of the payment of any debts or parts thereof (whether or not incurred by said authority) secured by mortgages on any property included in any of its housing projects.

(e) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

amount thereof and accrued interest, all bonds so purchased to be cancelled.

(f) Within its area of operation: to investigate into living, dwelling, and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of low income; to make studies and accommodations relating to the problem of clearing, replanning, and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the State or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies, and experimentation on the subject of housing.

(g) Acting through one or more commissioners or other person or persons designated by the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the State or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, or safety or welfare.

(h) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state.

Operation not for profit

Sec. 9. It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income, and receipts of the authority from whatever sources derived) will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority; (b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (c) to create (during not less than the six (6) years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

Rentals and tenant selection

Sec. 10. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess or five (5) times the annual rental of the quarters to be furnished such person or persons except that in the case of families with three (3) or more minor dependents such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range, and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this or the preceding section shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by this or the preceding section.

Cooperation between authorities

Sec. 11. Any two (2) or more authorities may join or co-operate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of said authorities.

Eminent domain

Sec. 12. An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this Act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and Acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the State or any political subdivision thereof may be acquired without its consent.

Planning, zoning, and building laws

Sec. 13. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances, and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

Bonds

Sec. 14. An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable; (a) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the Federal Government in aid of such project; (b) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, projects, or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the State or any political subdivision thereof and neither the city nor the county, nor the State or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

Bonds or legal investments

Sec. 14-A. The State and all public officers, municipal corporations, political subdivisions, school districts, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest funds belonging to them or within their control in any bonds of an authority when they are secured by a pledge of the revenues of a housing project, and when they are additionally secured by a pledge of annual contributions to be paid to an authority by the Federal Government, and such bonds may be accepted as security for all public deposits; provided, however, that the powers granted by this Section are supplemental and in addition to the powers granted by subsection (g) of Section 4 of the housing cooperation law and the powers granted by any other law; and provided further, that nothing contained in this Section may be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Form and sale of bonds

Sec. 15. Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such

rate or rates, not exceeding six (6) per centum per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at not less than par at public sale held after notice published once at least five (5) days prior to such sale in a newspaper having a general circulation in the city or the county and in a financial newspaper published in the City of New York, New York, provided, however, that such bonds may be sold at not less than par to the Federal Government at private sale without any public advertisement.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.

In any suit, action, or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located, and constructed in accordance with the purposes and provisions of this Act.

Provisions of bonds, trust indentures, and mortgages

Sec. 16. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees, and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing project or any part thereof; and to covenant as to what, other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon, and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant (subject to the limitations contained in this Act) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposi-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tion to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds of holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holder of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate, and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.

Certificate of Attorney General

Sec. 17. Any authority may submit to the Attorney General of the State any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the Attorney General, it shall be the duty of the Attorney General to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this Act and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations of such authority enforceable according to the terms thereof, the Attorney General shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and laws of the State of Texas.

Remedies of an obligee of authority

Sec. 18. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action, or proceeding at law or in equity to compel said authority and the commissioners, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this Act.

(b) By suit, action, or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

Additional remedies conferrable by authority

Sec. 19. An authority shall have power by its resolution, trust indenture, mortgage, lease, or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred) upon the happening of an event of default as defined in such resolution or instrument, by suit, action, or proceeding in any Court of competent jurisdiction:

(a) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the Court shall direct.

(c) To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

Exemption of property from execution sale

Sec. 20. All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property; provided, however, that the provisions of this Section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues.

Aid from Federal Government

Sec. 21. In addition to the powers conferred upon an authority by other provisions of this Act, an authority is empowered to borrow money or accept grants or other financial assistance from the Federal Government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases, or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this Act to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance, or operation of any housing project by such authority.

Tax exemption and payments in lieu of taxes

Sec. 22. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the State or any political subdivision thereof; provided, however, that in lieu of such taxes or special assessments, an authority may agree to make payments to the city or the county or any such political subdivision for improvements, services, and facilities furnished by such city, county, or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

Reports

Sec. 23. At least once a year, an authority shall file with the clerk a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this Act.

Severability

Sec. 24. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances, other than those as to which it is held invalid, shall not be affected hereby.

Act controlling

Sec. 25. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling. [Acts 1937, 45th Leg., H.B. #821, amended Acts 1937, 45th Leg., 2nd C.S., H.B. #102, § 1.]

Effective June 8 and Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to undertake slum clearance and projects to provide dwelling accommodations for persons of low income; to provide a short title for the Act; to define certain terms; to create such housing authorities in cities having a population of more than two hundred and thirty thousand (230,000) and less than two hundred and fifty thousand (250,000) and in such cities only; to de-

fine the powers and duties of housing authorities and to provide for the exercise of such powers, including acquiring property, borrowing money, issuing bonds and other obligations, and giving security therefor; to provide that housing authorities, their property and securities shall be exempt from taxation and assessment but to authorize certain payments in lieu of taxes; to provide for a certification of the bonds by the Attorney General; and to confer remedies on obligees of housing authorities; to provide for reports; to provide for a saving clause; to provide this Act to control in case of conflict with any other Act; and to declare an emergency. [Acts 1937, 45th Leg., H. B. #821.]

Art. 1269l. Housing Co-operation Law; short title

Section 1. This Act may be referred to as the "Housing Cooperation Law."

Finding and declaration of necessity

Sec. 2. It has been found and declared in the Housing Authorities Law that there exist in the State unsafe and insanitary housing con-

ditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the Housing Authorities Law constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given; that it is a proper public purpose for any State Public Body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the State Public Body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

Definitions

Sec. 3. The following terms, whenever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Housing authority" shall mean any housing authority created pursuant to the Housing Authorities Law of this State.

(b) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the Housing Authorities Law or any similar work or undertaking of the Federal Government.

(c) "State Public Body" shall mean any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the State.

(d) "Governing Body" shall mean the council, Commissioners Court, board, or other body having charge of the fiscal affairs of the State Public Body.

(e) "Federal Government" shall mean the United States of America, the United States Housing Authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

Co-operation in undertaking housing projects

Sec. 4. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any State Public Body may upon such terms, as it may determine:

(a) Dedicate, sell, convey or lease any of its property to a housing authority or the Federal Government;

(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Plan or replan, zone or re-zone any part of such State Public Body; make exceptions from building regulations or ordinances; any city or town also may change its map;

(e) Enter into agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority or the Federal Government respecting action to be taken by such State Public Body pursuant to any of the powers granted by this Act; and

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(f) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of such housing projects.

(g) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of such bonds.

(h) With respect to any housing project which a housing authority has acquired or taken over from the Federal Government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation, and other protection, no State Public Body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(i) In connection with any public improvements made by a State Public Body in exercising the powers herein granted, such State Public Body may incur the entire expense thereof. Any law or Statute to the contrary notwithstanding, any sale, conveyance, lease, or agreement provided for in this Section may be made by a State Public Body without appraisal, public notice, advertisement, or public bidding.

Further cooperation in undertaking housing projects

Sec. 4-a. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any State Public Body may upon such terms as it may determine: (a) enter into agreements with respect to the exercise by such State Public Body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings; and (b) cause services to be furnished to the housing authority of the character which it is otherwise empowered to furnish.

Contracts for payments for services

Sec. 5. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any State Public Body may contract with a housing authority or the Federal Government with respect to the sum or sums (if any) which the housing authority or the Federal Government may agree to pay during any year or period of years, to the State Public Body for the improvements, services and facilities to be furnished by it for the benefit of said housing project, but in no event shall the amount of such payments exceed the estimated cost to the State Public Body of the improvements, services or facilities to be so furnished; provided, however, that the absence of a contract for such payments shall in no way relieve any State Public Body from the duty to furnish, for the benefit of said housing project, customary improvements and such services and facilities as such State Public Body usually furnished without a service fee.

Loans to housing authority

Sec. 6. When any housing authority which is created for any city, becomes authorized to transact business and exercise its powers therein, the governing body of the city shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing authority during the first year thereafter, and shall appropriate such amount to the authority out of any moneys in such city treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the authority as a loan. Any city located in whole or in part within the area of op-

eration of a housing authority shall have the power from time to time to lend money to the authority or to agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

Procedure for exercising powers

Sec. 7. The exercise by a State Public Body of the powers herein granted may be authorized by resolution of the governing body of such State Public Body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolutions may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

Supplemental nature of act

Sec. 8. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

Severability

Sec. 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. [Acts 1937, 45th Leg., H.B. #820, amended Acts 1937, 45th Leg., 2nd C.S., H.B. #103, § 1.]

Effective June 8 and Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act to authorize cities of two hundred and thirty thousand (230,000) to two hundred and fifty thousand (250,000) population, according to the last preceding Federal Census, to aid housing projects of housing authorities or of the United States of America by furnishing parks, playgrounds, streets, and other improvements and facilities, by exercising cer-

tain other powers and by making agreements relating to such aid; to provide a Short Title; to define certain terms; to authorize cities to contract with respect to the sums to be paid them for improvements, services, and facilities to be provided for the benefit of housing projects; to require certain cities to make an appropriation for the first year's administrative expenses of housing authorities; and to authorize certain cities to lend moneys to housing authorities; and to declare an emergency. [Acts 1937, 45th Leg., H.B. #820.]

TITLE 30—COMMISSION MERCHANTS**2. LIVE STOCK COMMISSION MERCHANTS**

Art.

1287a. Live stock auction commission
merchants [New].**3. AGRICULTURAL COMMODITIES, COMMISSION MERCHANTS, DEALERS
AND BROKERS [NEW]**

Art.

1287—1. General provisions; definitions

fruits and vegetables; one bond

1287—2. Persons handling both citrus

and one license fee [New].

2: LIVE STOCK COMMISSION MERCHANTS**Art. 1287a. Live stock auction commission merchants**

Section 1. Any person, firm, or corporation pursuing, or who shall pursue the business of selling livestock, cattle, cows, calves, bulls, steers, hogs, sheep, goats, mules, horses, jacks, and jennies, or any of them, at auction, upon consignment for a commission or other charges, or who shall solicit consignments of livestock as a commission merchant or agent, or who shall advertise or hold himself out to be such shall be deemed and held to be a livestock auction commission merchant within the meaning of this subdivision and subject to all the provisions and penalties herein prescribed.

Provided, however, that in all counties in this State containing a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000), according to the last preceding Federal Census, the limitations and conditions imposed by this Act shall not apply to any person, firm, corporation, or association of persons pursuing the business of selling mules, horses, jack, and jennies. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #123, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

Bond required

Sec. 2. All such livestock auction commission merchants, before they shall engage in said business within the State, are hereby required to make bond in an amount specified hereinafter, signed by a solvent surety company authorized to do business in this State, and having a paid up capital of not less than Five Hundred Thousand Dollars (\$500,000), which said bond shall be payable to the County Judge of the county in which such commission auction merchant has his principal office or place of business, and to his successor in office, as trustee for all persons who may become entitled to the benefit of this Law, such bond to be filed by said County Judge in the office of the County Clerk of the county in which such commission auction merchant has his principal office or place of business, and in which suit shall be instituted for any illegal breaches of said bond.

Conditions of bond

Sec. 3. Said bond shall be conditioned that such livestock commission auction merchant shall faithfully obey and carry out all the terms and provisions of this Law, and will faithfully and truly perform all agreements entered into with all the consignors, owners, or those holding

valid lien on said livestock with respect to receiving, handling, selling, and making remittances and payments of the net proceeds thereof to said named parties, or to the person, firm, or corporation to whom said consignor, owner, or valid lien holder shall direct such payments to be made; and said bond shall further provide and shall be conditioned that said auction commission merchant shall, within forty-eight (48) hours of a sale of the livestock so consigned, including the day of sale, Sundays, and holidays, remit the net proceeds thereof to the parties rightfully entitled to receive the same, or to such person, firm, or corporation to whom such parties shall direct the payment to be made, or shall, within forty-eight (48) hours of a sale of such livestock for said parties at interest, deposit to the credit of such parties their respective interests in the net proceeds thereof in some State or National Bank in the city, town, or county where such livestock commission merchant has his principal office or place of business, if requested by any or all of said parties at interest to do so. The amount of such bond shall be in the sum of One Thousand Dollars (\$1,000). Said bond shall further provide that the person, firm, or corporation executing the same shall keep a true and accurate record of the description of all such livestock so sold at auction, which record shall be subject to be inspected by any citizen of Texas, which shall give a description of such livestock by color, probable age, and the marks and brands, if any there be, and the location of said marks and brands. Said livestock commission merchant executing such bond shall make quarterly report of such livestock so sold, giving the name of the consignor or person purporting to own the same, together with his address and the name and address of the person or persons purchasing the same. All such surety bonds shall contain a provision requiring that at least ten (10) days prior notice in writing be given to the County Judge of the county in which such commission auction merchant has his principal office or place of business by the party terminating such bond, in order to effect its termination.

Approval of bond by county judge

Sec. 4. The County Judge shall carefully scrutinize such bond when tendered and, if satisfied therewith, shall approve said bond. No bond shall be approved by him which is not in the amount prescribed by this Law and conditioned as required by this Act and executed by such surety company.

Bond filed in office of county clerk

Sec. 5. Said bond shall be, as soon as practicable, after the approval of same by the County Judge, filed for record in the office of the County Clerk in the county where the principal business of said commission auction merchant is to be carried on, and shall be recorded at length and properly indexed in a well bound book kept for that purpose, to be labeled "Bonds of Livestock Auction Commission Merchants." It is also made the duty of such auction commission merchant to procure a certified copy of such bond from the said County Clerk at the earliest practicable date, after the filing and recording thereof.

Deposit of proceeds of sale in case of dispute between claimants

Sec. 6. If the proceeds of any livestock so sold at auction by said livestock auction commission merchant shall become involved in a dispute between contending claimants, or if said livestock auction commission merchant is notified that some other party or parties are asserting right to said proceeds, or any part thereof, in opposition to the claim of those consigning said stock to said commission auction merchant, said

livestock auction commission merchant shall deposit the amount of such net proceeds involved in such contention in some State or National Bank in the town, city, or county where said livestock commission merchant has his principal place of business and promptly notify all interested parties of his said action in the premises, whereupon no further liability as to such funds so deposited shall accrue or continue as to said livestock auction commission merchant or on his bond.

Suits on bond

Sec. 7. The bond provided for by this Law may be sued upon and recovery had thereon by any person claiming to have been damaged by a breach of its condition. Said bond shall not become void upon the first recovery thereon, but may be sued upon until the amount thereof is exhausted. Upon a reduction of said bond by recovery thereon, to the extent of one-half thereof, said livestock auction commission merchant shall be required forthwith to make and file a new bond, conditioned as in the third Article of this Subdivision, so as to restore said bond to the required amount. If it shall come to the knowledge of the County Judge that the surety company making such bond has become insolvent, or is not financially able to make said bond ample and sufficient in the opinion of said County Judge, then said officer shall notify said livestock auction commission merchant to execute a new bond as therein provided for; whereupon it shall be the duty of such livestock auction commission merchant to make a new bond the same as originally required by the provisions of this Law.

Persons included as commission merchants

Sec. 8. Any person, firm, or corporation who pursues the business of selling livestock, cattle, cows, calves, bulls, steers, hogs, sheep, goats, mules, horses, jacks, and jennies, or any of them, upon consignment at auction for a commission or other charges, or who solicits consignments of livestock as an auction commission merchant or agent, or who advertises and holds himself out to be such, shall be held to be a livestock auction commission merchant within the meaning of this Chapter. [Acts 1937, 45th Leg., H.B. #659.]

Sections 9-12 of this Act being penal provisions are published as Penal Code article 1125a, section 13 declared an emergency making the act effective on and after its passage.

Effective April 26, 1937.

Title of Act:

An Act defining "livestock auction commission merchants," prescribing their duties as such livestock auction commission merchants, requiring them to give bond in a solvent surety company authorized to do business in this State, with a capi-

tal stock of not less than Five Hundred Thousand Dollars (\$500,000), such bond to be approved by the County Judge of such county; to require such livestock auction commission merchants to keep an accurate description of the livestock so sold by them at auction, giving marks and brands thereof, if any; to make quarterly reports to the Commissioners Court of the county in which they carry on such business, and providing penalties therefor, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #659.]

3. AGRICULTURAL COMMODITIES, COMMISSION MERCHANTS, DEALERS, AND BROKERS

Art. 1287—1. General provisions; definitions

Section 1. 1. This Act shall be known and may be cited as the Agricultural Protective Act.

2. As used in this Act, unless otherwise apparent from the context:

(a) The present tense includes the past and future tenses; and the future, the present.

- (b) The masculine gender includes the feminine and neuter.
- (c) The singular number includes the plural; and the plural, the singular.
- (d) "Department" means the Department of Agriculture of the State of Texas.
- (e) "Commissioner" means the Commissioner of Agriculture of the State of Texas.
- (f) "Section" means the Section of this Act unless some other Act is specifically mentioned.
- (g) "County" includes city and county.
- (h) "Person" includes individual, partnership, firm, corporation, company, or association.
- (i) "Sell" includes "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade."
3. Any person in whom the enforcement of any provision of this Act is invested has the power of a peace officer as to such enforcement.
4. The District or County Attorney of any county in which a violation of any provision of this Act occurs shall, upon request of any enforcing officer or other interested person, prosecute such violation.
5. Unless a different penalty is expressly provided, a violation of any provision of this Act is a misdemeanor.
6. Whenever any notice, report, statement, or record is required by this Act, it shall be in writing unless it is expressly provided that it may be oral.
7. Whenever any notice, report, statement, or record is required by this Act to be kept or made in writing, it shall be in the English language.
8. Whenever any power or authority is given by any provision of this Act to any person, it may be exercised by any deputy, inspector, or agent duly authorized by him unless it is expressly provided that it shall be exercised in person.
9. As used in this Act the word "shall" is mandatory and the word "may" is permissive.
10. The Commissioner may enter upon any premises to inspect the same or any plant, appliance or thing therein.
11. The Commissioner is hereby authorized to promulgate and adopt rules and regulations for carrying out those provisions of this Act which he is directed and authorized to administer or enforce.

Produce dealers

Sec. 2. (a) As used in this Act the term "person" includes any individual, firm, partnership, corporation or association of persons.

(b) The term "producer" means any person engaged in the business of growing or producing any farm product.

(c) The word "vegetables" and/or the words "agricultural commodities" and/or the words "farm products," when used in this Act shall mean any and/or all of the following enumerated commodities: Asparagus, Beans (string, wax, or green), Beets (bunched or topped), Broccoli (Italian sprouting), Cabbage (for sauerkraut), Cantaloupes, Carrots (bunched or clipped), Cauliflower, Celery (rough), Corn (green), Cucumbers (slicing), Dewberries and Blackberries, Eggplant, Endive or Escarole or Chicory, Garlic, Kale, Lettuce, Melons (Honey Ball and Honey Dew), Mustard Greens, Okra, Onions, Parsley, Peaches, Pears, Peas (fresh), Peppers (sweet), Potatoes, Potatoes (sweet), Radishes, Romaine, Shallots, Spinach, Strawberries, Tomatoes (fresh), Turnips (bunched or topped), or Rutabagas, Turnip Greens, and Watermelons.

(d) The term "consignor" includes any person who delivers to any commission merchant, dealer, or broker or the agent of any commission

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merchant, dealer, or broker any farm products for handling, sale, or resale.

(e) The term "commission merchant" means any person who shall receive on consignment or solicit from the producers thereof any farm product within the terms of this Act for sale on commission on behalf of this producer, or who shall accept any farm product in trust from the producer thereof for the purpose of resale, or who shall sell or offer for sale on commission any farm product, or who shall in any way handle for the account of, or as an agent of, the producer thereof any farm product.

(f) The term "dealer" means any person other than a commission merchant who for the purpose of resale at wholesale obtains from the producer thereof possession or control of any farm product, except by payment to the producer, at the time of obtaining such possession or control, of the full agreed price of such commodity.

(g) The term "broker" means any person engaged in the business of soliciting or negotiating the sale of any farm product.

(h) The term "agent" means any person who on behalf of any commission merchant, or dealer, or broker receives, contracts for, or solicits any farm product from a producer thereof or who negotiates the consignment or purchase of any farm product on behalf of any commission merchant, dealer, or broker.

(i) The term "commissioner" means the Commissioner of Agriculture of the State of Texas.

Exclusions

Sec. 3. This Act does not apply to or include:

(a) Any cooperative organization, operating under and by virtue of the laws of this State, or of any other State, or the District of Columbia, or the United States, or the agents of such organizations in the performance of their duties as such, except as to that portion of the activities of such organization, or agent as involves the handling or dealing in the farm products of non-members of such organization.

(b) Any person or exchange buying farm products for the purpose of reselling the same in dried, canned, or other preserved form.

(c) Any person who is engaged in the business of selling farm products as a retailer. It is expressly provided that any individual, partnership, corporation, company, or association of persons which is engaged in the business as a buying agency for more than three retail outlets is not a retailer within the purview of this Act. A retailer within the meaning of this Act is any person who purchases farm products in small quantities for resale to the consumer.

Licensing

Sec. 4. No person shall act as a commission merchant, dealer, broker, or agent without having obtained a license as provided in this Act. Every person acting as a commission merchant, dealer, broker, or agent as herein defined, shall file an application with the commissioner for a license to transact the business of commission merchant, dealer, broker, and/or agent and such application shall be accompanied by the license fee herein provided for each specified class of business. Separate application shall be filed for each class of business.

Such application shall in each case state the full name of the person applying for such license, and if the applicant be a firm, partnership, corporation, or association of persons, the full name of each member of such firm, or the names of the officers of such corporation or association or company shall be given in the application. Such application shall further state the principal business address of the applicant in the

State of Texas and elsewhere and the name or names of the person or persons authorized to receive and accept service of citation and legal notice of all kinds for the applicant. Such applicant shall further satisfy the Commissioner of his or its character, responsibility, and good faith in seeking to carry on the business stated in the application in the manner and form to be provided by the Commissioner.

In addition to the general requirements applicable to all classes of applications as in this Section set forth, the following requirements shall apply to the class of application noted:

(1) Commission Merchants: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed nor verified for the license period, except by written contract between the parties.

(2) Agents. Each application shall include such information as the commissioner may consider proper or necessary, and shall include the name and address of applicant and the name and address of each commission merchant, dealer, or broker represented or sought to be represented by said agent, and the written endorsement or nomination of such commission merchant, dealer, or broker. The Commissioner shall thereupon issue to such applicant a license entitling the applicant to conduct the business described in the application at the place named in the application for a year from the date thereof, or until the same shall have been revoked for cause. The Commissioner may also issue to each agent a card, or cards, which shall bear the signature of such agent and his principals, separate cards being required for each principal. Any agent shall show said card or cards upon the request of any interested person. Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the State of Texas and each licensee shall be entitled to the possession thereof only for the duration of said license.

For filing the application herein described, each applicant must pay a fee as follows:

- (a). Commission merchants: Twenty-five Dollars (\$25) each year.
- (b). Dealers: Twenty-five Dollars (\$25) for each year.
- (c). Brokers: Twenty-five Dollars (\$25) for each year.
- (d). Agents: One Dollar (\$1) for each year.

Any person who shall have been licensed as a commission merchant, shall, upon application, be licensed also as a dealer and/or as a broker as defined herein without payment of further fees, and shall thereupon conform to the parts of this Act regulating the business of a dealer and/or broker. Any person who has applied for and receives a license as a dealer or broker in the manner and upon payment of the fee herein set forth may apply for and secure a license as a commission merchant in addition to the license issued to him as such dealer or broker, without payment of further fee and upon further complying with those parts of this Chapter regulating the licensing of a commission merchant.

The Commissioner shall publish in pamphlet form at least once each calendar year and may publish as often as he thinks necessary a list of all licensed commission merchants, dealers, brokers, and agents, together with all necessary rules and regulations concerning the enforcement of this Act. Each licensed commission merchant, dealer, broker, or agent shall post his license, or a copy thereof, in his office or place of business in plain view of the public. All license fees collected under the provisions of this Act shall be paid into the State Treasury and shall be kept by the State Treasurer in a separate fund to be known as the Agricultural Protective Act Fund and the same shall be expended in carrying out the provisions of this Act.

Bonding

Sec. 5. Before any license is issued to any commission merchant, dealer, or broker, such commission merchant, dealer or broker shall execute and deliver to the Commissioner a surety bond in the sum of Five Thousand Dollars (\$5,000), executed by the applicant as principal and by a surety company qualified and authorized to do business in this State as surety. Said bond shall be conditioned upon compliance with the provisions of this Act and upon the faithful and honest handling of farm products in accordance with the terms of this Act. Said bond shall be to the State in favor of every consignor or producer of farm products. Any consignor or producer of farm products claiming to be injured by the fraud, deceit, or wilful negligence of any commission merchant, dealer, or broker, may bring action upon said bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by such fraud, deceit, or wilful negligence, or the failure to comply with the provisions of this Act. Any case of failure by a commission merchant, dealer, or broker to pay consignor, or producer, creditors for farm products received from said consignor, or producer to be sold, the Commissioner shall proceed forthwith to ascertain the names and addresses of all consignor, or producer creditors of such commission merchant, dealer, or broker, together with the amounts due and owing to them and each of them by such commission merchant, dealer, or broker and shall request all such producer, or consignor creditors to file a verified statement of their respective claims with the Commissioner. Thereupon the Commissioner shall bring an action on the bond in behalf of such producer, or consignor creditors. Upon any action being commenced on said bond, the Commissioner may require the filing of a new bond and immediately upon the recovery in any action upon such bond such commission merchant, dealer, or broker shall file a new bond and upon failure to file the same within ten (10) days in either case, such failure shall constitute grounds for the suspension or revocation of his license.

Enforcement

Sec. 6. Enforcement. For the purpose of enforcing the provisions of this Act the Commissioner is authorized to receive verified complaints against any person assuming or attempting to act as such, and upon receipt of such verified complaint, shall have full authority to make any and all necessary investigations relative to the said complaint. He shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled, or transported. He shall have full authority to administer oaths and to take testimony thereunder; to issue subpoenas requiring the attendance of witnesses before him, together with all books, memoranda, papers, and other documents, articles, or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and all parties disobeying the orders or subpoenas of said Commissioner shall be guilty of contempt and shall be certified to a court of competent jurisdiction for punishment for such contempt; copies of records, inspection certificates, certified reports, and all papers on file in the office of the Commissioner shall be prima facie evidence of the matters therein contained.

The Commissioner of his own motion may, or upon the verified complaint of any interested person shall investigate, examine, or inspect any transaction involving solicitation, receipt, sale, or attempted sale of farm products by any person or persons acting or assuming to act as a

commission merchant, dealer, broker, or agent; failure to make proper and true account of sales and settlement thereof as in this Act required; the intentional making of false statement as to condition and quantity of any farm products received, or in storage; the intentional making of false statements as to marketing conditions; the failure to make payment for farm products within the time required by this Act; or investigate, examine, or inspect any and all other injurious transactions, and in furtherance of any such investigation, examination, or inspection, the Commissioner or any authorized representative may examine that portion of the ledgers, books, accounts, memoranda, and other documents, farm products, scales, measures, and other articles and things used in connection with the business of such person relating to the transactions involved. When a producer or consignor of farm products fails to obtain settlement satisfactory to him in any transaction after having notified the consignee, a verified complaint may be filed with the Commissioner who shall undertake to effect a settlement, and in the event that he shall fail to effect such settlement, he shall cause a copy of such complaint, together with a notice of the time and place and hearing of such complaint, to be served personally or by mail upon such person. Such service shall be made at least ten (10) days before the hearing, which shall be held in the city or town in which, or closest to which, is situated the business location of the licensee or in which the transaction complained of is said to have occurred. At the time and place appointed for such hearing, the Commissioner, or his agents, shall hear the parties to such complaint and shall enter a decision either dismissing such complaint or specifying the facts established on such hearing. A copy of such decision shall be furnished each, every, and all the respective parties thereto.

The Commissioner may refuse to grant a license and may revoke or suspend any license, as the same may require, when he is satisfied of the existence of any of the following facts:

(1) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale, or storage of, or for the rendering of any service in connection with the handling, sale, or storage of any farm products.

(2) That the applicant or licensee has failed or refused to render a true account of sale, or to make a settlement thereon, or to pay for farm products received within the time and in the manner required by this Act.

(3) That the applicant, or licensee, directly or indirectly, has purchased for his or its own account farm products received by him upon consignment without prior authority from consignor, or producer, together with price fixed by consignor, or producer, or without promptly notifying the consignor or producer of such purchase. This shall not prevent any commission merchant from checking the account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(4) That the applicant, or licensee, has individually made any false or misleading statements as to the conditions of the market for any farm products.

(5) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the producer or consignor.

(6) That a commission merchant to whom any consignment is made has reconsigned to another commission merchant, for the purpose of receiving, collecting, or charging by such means, more than one commission for making the sale thereof for the consignor, unless by consent of such consignor.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(7) That the licensee, or applicant, has failed or refused to file with the Commissioner a schedule of his charges for services in connection with produce handled on account of or as an agent of another; that the applicant, or licensee, has indulged in any unfair practice.

Previous violation by the applicant or by any person connected with him, or it, of any of the provisions of this Chapter shall be good and sufficient ground for denial of a license.

Any action of the Commissioner with reference to the granting of, or the refusal to grant, or to renew any license, or with reference to the revocation or suspension of any license granted under the provisions of this Chapter may be reviewed by any court of competent jurisdiction, but pending final determination of any such review, in the case of the revocation or suspension of any person licensed hereunder, such license shall be deemed in full force and effect pending the expiration of the license period or the final determination of such proceeding, whichever is first in point of time.

Every commission merchant, dealer, or broker having received any farm products for sale as such commission merchant, dealer, or broker, shall promptly make and keep a correct record showing in detail the following with reference to the handling, sale, or storage of such farm products:

- (a) Name and address of the consignor.
- (b) The date received.
- (c) The condition and quantity upon arrival.
- (d) Date of such sale for account of consignor.
- (e) The price for which sold.
- (f) An itemized statement of the charges to be paid by consignor in connection with the sale.
- (g) The names and addresses of the purchasers if said commission merchant has any financial interest in the business of said purchasers, or if paid purchasers have any financial interest in the business of said commission merchant, directly, or indirectly, as holder of the other's corporate stock, as co-partner, as lender or borrower of money to or from the other, or otherwise.
- (h) A lot number or other identifying mark for each consignment shall be or shall appear on all sales tags or other essential records needed to show what the produce actually sold for.
- (i) Any claim or claims which may have been or may be filed by the commission merchant, dealer, or broker against any person for overcharges or for damages resulting from the injury or deterioration of such farm products by the act, negligence, or failure of such person and such records shall be open to the inspection of the Commissioner and the consignor of farm products in whom such claim or claims are made.

When requested by his consignor, a commission merchant, dealer, or broker shall, before the close of the next business day following the sale of any farm products consigned to him, transmit or deliver to the owner or consignor of the farm products a true written report of such sale, showing the amount sold and the selling price. Remittance in full of the amount realized from such sales, including all collections, overcharges, and damages, less the agreed commission and other charges, together with a complete account of sale, shall be made to the consignor within ten (10) days after receipt of the moneys by commission merchant, dealer, or broker, unless otherwise agreed in writing. In the account, the names and addresses of purchasers need not be given as required except as required in Subdivision (g) of Section 6.

Every commission merchant, dealer, or broker shall retain a copy of all records covering each transaction, for a period of one (1) year

from the date thereof, which copy shall at all times be available for, and open to, the confidential inspection of the commissioner and/or the consignor, or authorized representative of either. In the event of any dispute or disagreement between a consignor and a commission merchant arising at the time of delivery as to condition, quality, grade, pack, quantity, or weight of any lot, shipment, or consignment of farm products, the department shall furnish upon the payment of a reasonable fee therefor by the requesting party, a certificate establishing the condition, quality, grade, pack, quantity, or weight of such lot, shipment, or consignment. Such certificate shall be prima facie evidence in all Courts of this State as to the recitals thereof. The burden of proof shall be upon the commission merchant, dealer, or broker to prove the correctness of his accounting as to any transaction which may be questioned.

When any dealer, commission merchant, or broker causes a producer, seller, or owner, or agent of such producer, seller, or owner, to part with the control or possession of any farm products or vegetable or agricultural commodity, as defined in this Act, by means of any agreement under which such producer, seller, or owner, or agent of such producer, seller, or owner, has waived the right to demand the purchase price as and when he parts with control or possession of such agricultural commodity, the contract for the handling, purchase of, or sale of such agricultural commodity as between the dealer, commission merchant, or broker, and the producer, seller, or owner, or the agent of such producer, seller, or owner, shall be evidenced in writing in duplicate, such writing shall contain the details of such transaction, including the price to be paid by such dealer, commission merchant, or broker, and the time and manner of payment of such price. In the event the contract, or writing, does not specify a time and manner of settlement, then the dealer, commission merchant, or broker shall settle therefor within thirty (30) days from and after the delivery of such agricultural commodity, or commodities, into the control or possession of such dealer, commission merchant, or broker, by producer, seller, or owner, or agent of such producer, seller, or owner, and the dealer, commission merchant, or broker, shall then truly account to and pay over to said producer, seller, or owner, or the agent of such producer, seller, or owner, the full amount called for by such contract or writing, including any minimum price guaranteed by dealer, commission merchant, or broker.

Any sale of farm products made by a commission merchant for less than the current market price with any person with whom he has any financial connection, directly or indirectly, as owner of its corporate stock, as co-partner, or otherwise, or any sale out of which any commission merchant receives directly or indirectly any portion of the purchase price other than the commission provided for under the schedule required to be filed with the commissioner by virtue of the terms of this Act, shall be prima facie evidence of fraud within the meaning of this Act.

Penalties

Sec. 7. Any person is guilty of a misdemeanor and is punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year or by both, who assumes or attempts to act as a commission merchant, dealer, broker, or agent without a license, or who, being a commission merchant, dealer, or broker:

(a) Imposes false charges for handling or service in connection with farm products.

(b) Fails or refuses to supply and/or deliver to a producer, seller, or owner, or the agent of such producer, seller, or owner, a memoranda or contract in writing in any transaction whereby such producer, seller,

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

or owner, or the agent of such producer, seller, or owner, has waived the right to demand the purchase price as and when such producer, seller, or owner, or the agent of such producer, seller, or owner, parts with the control or possession of any agricultural commodity or commodities, or fails to account promptly, correctly, fully, and properly and to make settlement therefor as herein provided.

(c) Intentionally makes false or misleading statement or statements as to market conditions.

(d) Makes fictitious sales or is guilty of collusion to defraud the producer.

(e) Directly or indirectly purchases for his own account goods received by him upon consignment without prior authority from the consignor, or fails promptly to notify the consignor of such purchases, if any, on his own account. This clause does not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant, dealer, or broker forthwith enters such transaction on his account of sales.

(f) Intentionally makes false statement or statements as to the grade, condition, markings, quality, or quantity of goods received, shipped, or packed in any manner.

(g) Fails to comply in every respect with the terms and provisions of this Act. Civil suits and criminal prosecutions * * * arising by virtue of any of the provisions of this Chapter may be commenced and tried in either the county in which the products were received by the commission merchant or within the county in which the principal place of business of the commission merchant is located, or within the county in which the violation of this Chapter occurred.

Act applicable only to Texas Citrus Fruit Zone

Sec. 8. The terms of this Act shall apply only to the Texas Citrus Fruit Zone, as said area is defined in Section 1 of House Bill No. 553, Chapter 230, General Laws of Texas, Regular Session Forty-second Legislature, and shall not apply to any other section of the State.

Anti-Trust Laws unaffected

Sec. 8a. Provided, however, nothing in this Act shall alter, repeal, change or modify the Anti-Trust Laws of this State and in the event any Section or Subsection of this bill shall conflict with the provisions of the Anti-Trust Laws, either Civil or Criminal, said Section or Subsection shall fall and the Anti-Trust Laws, both Civil and Criminal, shall stand.

Persons excepted from act

Sec. 8b. The provisions of this Act shall not apply to any person, firm or corporation paying for such commodities in lawful currency of the United States at the time of purchase.

Administration of Act; salaries and expenses; Agricultural Protective Fund

Sec. 9. The administration of this Act and of House Bill No. 99,¹ Regular Session Forty-fifth Legislature shall be by and under the direction of the Commissioner of Agriculture, who is hereby authorized to appoint a director, two assistant directors, and such inspectors and other assistants as may be necessary to the proper enforcement of this Act, and of House Bill No. 99, Acts Regular Session Forty-fifth Legislature; provided that the salary of said director shall not exceed Three Hundred (\$300.00) Dollars per month, that of the two assistant directors not to exceed Two Hundred (\$200.00) Dollars per month each, and that of inspectors not to

exceed One Hundred Fifty (\$150.00) Dollars per month each, and that of stenographers not to exceed the salary fixed by the Legislature for stenographers in the various State Departments. All salaries, travelling expenses of director, assistants and inspectors, and all other expenses incident to the enforcement of this Act and of House Bill No. 99, Regular Session Forty-fifth Legislature, shall be paid out of funds received by the Commissioner in fees and otherwise from the enforcement of this Act, and from the enforcement of House Bill No. 99, Regular Session Forty-fifth Legislature, provided that all moneys received by the Commissioner, through the enforcement of these two Acts shall be deposited in the State Treasury where same shall be set up by the Comptroller and the Treasurer in a Special Fund to be known as the Agricultural Protective Act Fund, which shall be a continuing fund, and all expenditures made by the Commissioner in the administration of this Act, and of House Bill No. 99, Regular Session Forty-fifth Legislature, shall be for accounts approved by him and upon warrants drawn by the Comptroller on the State Treasurer against said Agriculture Protective Act Fund. [Acts 1937, 45th Leg., H.B. #557, as amended Acts 1937, 45th Leg., 1st C.S., S.B. #24, § 1.]

1 Article 118b and Penal Code, art. 1700a—3.

Effective 90 days after May 22, 1937, date of adjournment of Regular Session of the 45th Legislature.

Section 2 of this Act repealed art. 118b, § 26, Section 3 is published as art. 1287—2. Section 4 declared an emergency and specifically provided that this Act should take effect and be in force concurrently with House Bills Nos. 99 and 557 of the Regular Session of the 45th Legislature which are effective 90 days after May 22, 1937, date of adjournment of Regular Session of 45th Legislature.

Acts 1937, 45th Leg., 1st C.S., S.B.# 24 amended Acts 1937, 45th Leg., H.B. # 557 by striking out sections 9, 9a, 9b and 9c of the Act and substituting therefor a new section to be known as Section 9, as now set out in the text.

Section 10 provides that if any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Title of Act:

An Act providing for the licensing of all persons before engaging in the business of handling perishable agricultural commodities as defined in this Act, whether as a commission merchant, dealer, broker, or as agent of any commission merchant, dealer, or broker; defining certain terms as used herein; providing manner of settlement by licensees with producer, seller, or owner; providing that all contracts between dealers and owners, sellers, or producers, shall be in writing and providing time and manner of settlement; making it unlawful for any per-

son to engage in business as a commission merchant, dealer, broker, or as an agent of any commission merchant, dealer, or broker without first complying with the terms and provisions of this Act; prescribing the duties of the commissioner under this Act; providing for applications for licenses under this Act and for the contents thereof; providing for license fees to be paid by licensees under this Act and for the granting of licenses and the duration thereof; providing for the cancellation of licenses for violation of this Act; providing for the depositing of license fees with the State Treasurer in a special fund to be known as the Agricultural Protective Act Fund and providing the purpose for which such funds may be used; providing for the investigation and filing of complaints by the commissioner and/or his agents against violators of this Act; providing for the holding of hearings by the commissioner on such complaints and for the commissioner's powers and authority in connection with such hearing; providing for cancellation or suspension of licenses and providing for appeal to Courts of competent jurisdiction for revision of any order entered by the Commissioner; providing for accurate records of accounts to be kept and furnished by licensees under this Act to consignors, producers, and/or their agents; providing for the powers and authority of the commissioner in all matters pertaining to violations of the provisions of this Act; fixing penalties for violators of this Act; providing for bonding licensees under this Act and for fixing the amount of said bond and the terms, conditions, and requirements thereof; providing for recovery on said bonds in the event of violation thereof under this Act and fixing the venue of all suits arising thereunder; providing for exemption of retailers as defined in this Act; providing for the exemption of co-operative organizations as defined herein from the terms of this Act; providing for the exemption of persons

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

buying farm products for the purpose of reselling the same in dried, canned, or other preserved form; providing for the exemption from the provisions of this Act of all growers who handle and market their own fruit individually; providing that it shall be the duty of the commissioner, his agents, and employees to assist in the apprehension and punishment of violators of this Act; providing for the regulation of buying, selling, and handling perishable agricultural commodities to prevent unfair trade practices and in a manner which will assure the protection of producers and licensees as herein defined; providing that it shall be unlawful for any person to engage in the business of handling farm products within this State unless and until such person has fully complied with the provisions of this Act; making the provisions of the Act pertaining to necessity for license and license fees applicable only to the Texas Citrus Zone as defined in Section 1 of House Bill No. 553, Chapter 350, Acts, Forty-second Legislature; providing that this Act shall not amend or modify, or in any way repeal the Anti-Trust Laws of this State; and providing that this Act shall not apply to truckers paying cash for such commodities; and providing that

the administration of the terms and conditions of this Act shall be under the direction and supervision of the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture; and providing that H.B. No. 99, as passed by the Forty-fifth Legislature shall be amended so as to place the administration and supervision of said H.B. No. 99 under the direction and supervision of the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture, for the term of office and at a salary fixed by the terms of this Act; and providing that the Chief or Director of the Markets and Warehouse Division of the Department of Agriculture shall be appointed by the Commissioner of Agriculture for a term of office of six (6) years from and after the effective date of this Act, at a salary of Four Hundred Dollars (\$400) per month, and providing for the appointment of necessary assistants, inspectors and other personnel, and providing for payment of salaries, traveling and other incidental expenses; providing for the validity of remainder of this Act if any portion of the same be declared unconstitutional; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #557.]

Art. 1287—2. Persons handling both citrus fruits and vegetables; one bond and one license fee

Any person who comes within any of the classifications set out in either House Bill No. 99,¹ Acts Regular Session Forty-fifth Legislature or House Bill No. 557,² Acts Regular Session Forty-fifth Legislature, wherein a surety bond of Five Thousand (\$5,000.00) Dollars is required by him by that classification, shall be permitted to give one Five Thousand (\$5,000.00) Dollars surety bond, so worded as to guarantee faithful performance of all the provisions of both House Bill No. 99, Acts Regular Session Forty-fifth Legislature and House Bill No. 557, Acts Regular Session Forty-fifth Legislature, such bond to be in such form as the Commissioner of Agriculture may prescribe, and any person who elects to give one surety bond of Five Thousand (\$5,000.00) Dollars to guarantee faithful performance under both of said Acts shall be liable for only one license fee of Twenty-five (\$25.00) Dollars, and his license shall reflect the fact that he is licensed thereby to handle both citrus fruits and vegetables. [Acts 1937, 45th Leg., 1st C.S., S.B. # 24, § 3.]

¹ Article 118b and Pen.Code, art. 1700a—3.

² Article 1287—1.

Effective 90 days after May 22, 1937,

date of adjournment of Regular Session of the 45th Legislature.

Emergency section. See note under article 1287—1, § 9, ante.

TITLE 32—CORPORATIONS—PRIVATE

CHAPTER ONE—PURPOSES

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Art. 1302. [1121] [642] [566] Purposes

68.

See article 2317.

99. Private corporations may be created for the purpose of producing, mining, manufacturing, buying, and selling of building materials of all kinds. [Acts 1937, 45th Leg., H. B. # 221, § 1.]

Effective March 25, 1937.

Section 2 of this Act declared an emergen-

cy and provided that the Act should take effect from and after its passage.

100. Corporations may be created for the purpose of providing for the registration, preservation of the purity of the blood, and improvement in the breeding of any species or class of livestock, and to keep, maintain, and publish in suitable form the history, record, and pedigree thereof. [Acts 1937, 45th Leg., H.B. #1008, § 1.]

101. Corporations may be created for the purpose of purchasing and owning patents with all rights incidental thereto, and to manufacture products and processes thereunder, and to market, sell, and distribute such products, and license dealers to use such processes in prescribed territories on a royalty basis. [Acts 1937, 45th Leg., H.B. #1008, § 1.]

102. Corporations may also be created for the purposes of providing for the mutual protection of members of voluntary Nonprofit Livestock Associations and to promote generally the welfare of the livestock industry in the State and Nation. [Acts 1937, 45th Leg., H.B. #1008, § 1.]

Effective May 14, 1937.

Section 2 of this Act declared an em-

ergency and provided that the Act should take effect from and after its passage.

103. Corporations may be formed to establish, maintain, operate and engage in the business of grading, constructing terraces and drainage structures and all other forms of dirt construction work. [Acts 1937, 45th Leg., S.B. #284, § 1.]

Effective May 1, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Art. 1302b. Dealing in and canning fruits and vegetables; cold storage plants

Section 1. Corporations may be formed for the purpose of dealing in fruits, fruit juices, and vegetables produced in the United States and shall have power and authority to buy and sell fruits, fruit juices, and vegetables; to prepare the same for market; to preserve and can the same; to own and operate cold storage plants and warehouses in connection with such business; and to finance the carrying and orderly

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

marketing of such fruits, fruit juices, and vegetables; and the transaction of all business heretofore set out.

Operation of airplanes for dusting and spraying orchards, vegetables and crops

Sec. 2. Corporations may be formed with the right to acquire and to own, lease, operate, or have operated airplanes, including all classes of flying machines, for the purpose of dusting and spraying orchards, vegetables, and crops of whatsoever character with insecticides, and to buy and sell such insecticides as an incident thereto, with the right to acquire by purchase or otherwise or maintain all necessary starting and lighting grounds and fields and workshops.

Act cumulative

Sec. 3. This Act shall be cumulative of all other laws heretofore enacted creating new purposes for which corporations may be formed and not since repealed. [Acts 1937, 45th Leg., H.B. #1178.]

Effective May 19, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for the creation of corporations for the purpose of dealing in, buying and selling, preparing for market, and preserving and canning fruits, fruit-juices, and vegetables produced in the United States and enumerating the power and authority of such corporations; providing for the creation of corporations for

the purpose of owning and operating airplanes and all other flying machines to be used in spraying orchards and crops with insecticides; providing for other rights and powers of such corporations, including the right to buy and sell insecticides and the right to acquire and maintain necessary starting and lighting grounds and fields and workshops; providing that this Act shall be cumulative of other Acts creating purposes for which corporations may be formed; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1178.]

CHAPTER TWO—CREATION OF CORPORATIONS

Art.

1315(a). Extension of charters of private corporations by Secretary of State [New].

Art.

1315(b). Corporations included; ten year period defined [New].

Art. 1315(a). Extension of charters of private corporations by Secretary of State

Subject to a finding by the Secretary of State as hereinafter provided, any private corporation organized or incorporated for any purpose or purposes authorized under this Title, at any time within ten (10) years prior to the expiration of its charter, or any extension thereof, may extend such charter and the corporate existence of such corporation for an additional period of not to exceed fifty (50) years from the expiration date of the original charter, or any extension thereof, with all the privileges, powers, immunities, right of succession by its corporate name, and rights of property, real and personal, exercised and held by it at such expiration date, to the same intents and purposes as upon original incorporation. The manner of extending any such charter shall be by a resolution in writing, adopted at any annual or special meeting of stockholders called for that purpose by stockholders holding a majority of the shares of capital stock of such corporation then outstanding, such resolution to specify the period of time for which the charter is extended, and a copy of such resolution, duly certified by the secretary of the corporation, under the corporate seal, shall be filed and recorded in the office of the Secretary of State. Upon the adoption of such resolution and the filing of

a certified copy thereof with the Secretary of State, together with payment of the filing fee herein prescribed, the charter and corporate existence of such corporation may be extended for the additional period of time recited in such resolution. The filing fee to be paid for any such extension of a charter shall be such fee as said corporation would be required under the Statutes of Texas to pay in the event it was then applying for a new charter instead of extending its then existing charter.

Such extensions, however, may be made only in instances where the Secretary of State shall have found, after proper investigation, that such corporation is solvent and its capital unimpaired. [Acts 1937, 45th Leg., H.B. #122, § 1.]

Effective April 19, 1937.

Section 2 of this Act declared an emer-

gency making the act effective on and after its passage.

Art. 1315(b). Corporations included; ten year period defined

The provisions of Article 1315(a) shall extend to and include all private corporations incorporated under the general laws of Texas. The period of ten (10) years prior to the expiration of the charter or any extension thereof referred to in Article 1315(a) shall include the period of time during which such corporation may have continued its existence under the provisions of Article 1389 of the Revised Civil Statutes of 1925. [Acts 1937, 45th Leg. 1st C.S., S.B. #, 21, § 1.]

Effective July 7, 1937.

Section 2 of this Act declared an emer-

gency and provided that the Act should take effect from and after its passage.

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

[Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations]

Sec. 4. Each corporation embraced within the terms of this Act, shall publish in some newspaper of general circulation, in the County where it has its principal place of business, on or before the first day of February of each year, a statement of its condition on the previous 31st day of December in such form as may be required by the Banking Commissioner of Texas, showing under oath its assets and liabilities and shall file a copy of such statement with the Banking Commissioner of Texas, together with a fee of Ten (\$10.00) Dollars for filing. [As amended Acts 1937, 45th Leg., S.B. #235, § 1.]

Amendment of 1937, effective April 26, 1937.

Section 3 of the amendatory act of 1937 repeals all conflicting laws and parts of laws, section 4 provides that if any

paragraph is held invalid, such invalidity shall not affect the remainder of the act and section 5 declared an emergency making the act effective on and after its passage.

Sec. 7. All bonds, notes, certificates, debentures, or other obligations sold in Texas by any corporation affected by a provision of this Act shall be secured by securities of the reasonable market value, equaling at least at all times the face value of such bonds, notes, certificates, debentures or other obligations. If such corporation sells in Texas bonds, notes, certificates, debentures or other obligations upon which it receives installment payments, such bonds, notes, certificates, debentures and other obligations shall be secured at all times by securities having the reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding. Said securities shall be placed in the hands of a corporation having trust powers approved by the Banking

Commissioner of Texas as Trustee under a trust agreement, the terms of which shall be approved in writing by the Banking Commissioner of Texas, or at the option of any such corporation which sells in Texas bonds, notes, certificates, debentures or other obligations upon which it receives installment payments, such corporation may upon application to, and approval by, the Banking Commissioner of Texas deposit securities having a reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding with the State Treasurer of Texas in lieu of such deposits with a Trustee as set forth hereinabove, provided that, in the event such deposit is made with the State Treasurer of Texas in lieu of such Trustee: (1) Such corporation shall file a certified statement of reserve liability and detailed list of securities so deposited, semi-annually with the Banking Commissioner of Texas, which certification shall be made by a Certified Public Accountant, who shall be approved by and be satisfactory to the Banking Commissioner. The corporation shall pay a fee of Fifteen (\$15.00) Dollars for filing each such statement. (2) Said securities shall be deposited with the State Treasurer under a trust agreement, the terms of which shall be approved by the Banking Commissioner.

It is further provided that if any corporation, transacting business under this Act, shall have heretofore deposited securities with a corporation having trust powers under a trust agreement as provided hereinabove desires to avail itself of the option to deposit securities with the State Treasurer of Texas in lieu of such Trustee, it shall first secure a written certificate from the Banking Commissioner of Texas approving said securities on deposit with the Trustee as being eligible and sufficient for deposit with the State Treasurer, and it shall file a copy of said certificate with the State Treasurer of Texas, and with the said Trustee whereupon said Trustee shall deliver said securities so approved to the State Treasurer of Texas together with the trust agreement and/or agreements relating thereto, who shall issue his receipt therefor to said Trustee, furnishing a copy thereof to the corporation owning the same, which said receipt of the State Treasurer of Texas shall fully and finally relieve, acquit, and discharge the said Trustee of all responsibility and liability under such trust agreement, and/or agreements, whereupon said State Treasurer shall be considered as, and be substituted as, Trustee instead and in the place of the original Trustee.

In the event that the Banking Commissioner approves part of said securities with the said Trustee as being sufficient and eligible for deposit with the State Treasurer, but does not approve all of said securities with said Trustee, and/or in the event there is a deficiency of securities with said Trustee, the corporation owning said securities and desiring to avail itself of its option of depositing said securities with the State Treasurer, shall deposit with the State Treasurer of Texas a sufficient amount of eligible securities as defined herein securing the approval of the Banking Commissioner of Texas as to said securities so that the amount of securities so deposited together with the amount of securities with said Trustee that are approved by the Banking Commissioner as being eligible and sufficient have the reasonable market value equal to the withdrawal or cancellation value of such obligations then outstanding. Whereupon the said Trustee shall, as hereinabove set forth, deliver to the State Treasurer of Texas the securities in its hands, taking the receipt of the State Treasurer therefor, and in such case such Trustee shall be fully and finally relieved, acquitted, and discharged of all responsibility and liability under such trust agreement, and/or agreements.

Any such corporation which sells in Texas bonds, notes, certificates, debentures or other obligations upon which it receives installment payments, which upon the effective date of this Act has securities deposited with a Trustee hereunder, may, with the written consent of the Banking Commissioner continue under said trust agreement, and/or agreements as to bonds, notes, certificates, debentures or other obligations already sold in Texas upon which it receives installment payments, and avail itself of the option to deposit such securities as to future sales of said obligations with the State Treasurer of Texas by complying with this Act in the same manner that a corporation hereafter organized would be required to comply with this Act.

All trust agreements hereafter made as to any securities placed with the State Treasurer under this Act shall provide that such securities may be substituted with securities of equal value by the filing by the corporation with the State Treasurer of a certificate of authorization to do so from the Banking Commissioner of Texas, and that any of said securities may be withdrawn by the corporation from the State Treasurer by the filing with the State Treasurer of a certificate issued by the Banking Commissioner that the withdrawing of the particular securities is authorized by the Banking Commissioner, and that its withdrawal will not reduce the amount of securities below the amount required by this Act. Provided, that before selling or offering for sale on the installment plan in Texas any such bonds, notes, certificates, debentures, or other obligations, such corporation shall file with the Banking Commissioner specimen copies of such bonds, notes, certificates, debentures or other obligations. Unless within sixty (60) days after the filing of any such specimen copy the Banking Commissioner issues a notice to such corporation of a hearing to determine whether such instrument is fraudulent, unreasonable or inequitable, or has an unreasonable or inequitable cash surrender value, the same shall be deemed to have been approved by the Banking Commissioner. But if, after hearing pursuant to notice issued within said period of sixty (60) days, the Banking Commissioner should find and determine that any such bond, note, certificate, debenture, or other obligation is either fraudulent, unreasonable, or inequitable, or has an unreasonable or inequitable cash surrender value, such corporation shall have no right to sell or offer for sale in the State of Texas such bond, note, certificate, debenture or other obligation so found to be fraudulent, unreasonable, or inequitable, or has an unreasonable or inequitable cash surrender value. Provided, that any such corporation may have such finding reviewed in the District Court of Travis County, Texas, by filing suit against the Banking Commissioner in such Court at any time within sixty (60) days after receiving notice of such finding. In such suit such corporation shall be entitled to a trial de novo on the issues on which the Banking Commissioner shall have made such adverse findings. If as the result of such trial the issues shall be determined favorably to such corporation, the adverse findings of the Banking Commissioner shall have no further binding force or effect; and in that event, the right to sell such notes, bonds, or other obligations may be protected by injunction issued in said cause. Provided, that either party shall have the right of appeal according to Statutes governing appeals in civil cases.

All cash or securities left with the State Treasurer in compliance with Article 696, Revised Civil Statutes of 1925, shall be considered as part of the collateral required under this section.

All bonds, notes, certificates, debentures or other obligations, sold or offered for sale in Texas by such corporation shall definitely describe the character of collateral securing the payment of such obligation.

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

In the event any such corporation shall sell or offer for sale in Texas, any bonds, notes, certificates, debentures, or other obligations without complying with this section, such conduct shall constitute grounds for the forfeiture of its charter and for receivership at the suit of the Attorney General, which suit shall be brought upon the request of the Banking Commissioner of Texas. [As amended Acts 1937, 45th Leg., S.B. #235, § 2.]

Amendment of 1937, effective April 26, 1937.

See note to § 4 ante.

CHAPTER EIGHTEEN—MISCELLANEOUS

RURAL ELECTRIFICATION [New].

Art.

1528b. Electric Cooperative Corporation Act; Short Title

RURAL ELECTRIFICATION [NEW.]

Art. 1528b. Electric Cooperative Corporation Act; Short Title

Section 1. This Act may be cited as the "Electric Cooperative Corporation Act."

Definitions

Sec. 2. In this Act, unless the context otherwise requires:

(1) "Corporation" means a corporation organized pursuant to the provisions of this Act;

(2) "Board" means a board of directors of a corporation organized under this Act;

(3) "Member" means the incorporators of a corporation and each person thereafter lawfully admitted to membership therein;

(4) "Federal agency" includes the United States of America and any department, administration, commission, board, bureau, office, establishment, agency, authority, or instrumentality of the United States of America heretofore or hereafter created;

(5) "Person" includes any natural person, firm, association, corporation, business trust, partnership, Federal agency, State or political subdivision thereof or any body politic;

(6) "Acquire" means and includes construct, acquire by purchase, lease, devise, gift, or other mode of acquisition;

(7) "Obligations" include bonds, notes, debentures, interim certificates or receipts, and all other evidences of indebtedness issued by a corporation;

(8) "Rural area" means any area not included within the boundaries of any incorporated or unincorporated city, town, village, or borough, having a population in excess of fifteen hundred (1,500) inhabitants, and includes both the farm and non-farm population thereof.

Purpose

Sec. 3. Cooperative, non-profit, membership corporations may be organized under this Act for the purpose of engaging in rural electrification by any one or more of the following methods:

(1) The furnishing of electric energy to persons in rural areas who are not receiving central station service;

(2) Assisting in the wiring of the premises of persons in rural areas or the acquisition, supply, or installation of electrical or plumbing equipment therein;

(3) The furnishing of electric energy, wiring facilities, electrical or plumbing equipment, or services to any other corporations organized under this Act or to the members thereof.

Powers of corporation

Sec. 4. Each corporation shall have power:

- (1) To sue and be sued, complain and defend, in its corporate name;
- (2) To have perpetual succession unless a limited period of duration is stated in its articles of incorporation;
- (3) To adopt a corporate seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
- (4) To generate, manufacture, purchase, acquire, and accumulate electric energy and to transmit, distribute, sell, furnish, and dispose of such electric energy to its members only, and to construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange, and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, and transmission and distribution lines or systems necessary, convenient, or useful;
- (5) To assist its members only to wire their premises and install therein electrical and plumbing fixtures, machinery, supplies, apparatus, and equipment of any and all kinds and character, and in connection therewith and for such purposes, to purchase, acquire, lease, sell, distribute, install, and repair electrical and plumbing fixtures, machinery, supplies, apparatus, and equipment of any and all kinds and character and to receive, acquire, endorse, pledge, hypothecate, and dispose of notes, bonds, and other evidences of indebtedness;
- (6) To furnish to other corporations organized under this Act, or to the members thereof, electric energy, wiring facilities, electrical and plumbing equipment, and services convenient or useful;
- (7) To acquire, own, hold, use, exercise, and, to the extent permitted by law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges, licenses, rights of way, and easements necessary, useful, or appropriate;
- (8) To purchase, receive, lease as lessee, or in any other manner acquire, own, hold, maintain, sell, exchange, and use any and all real and personal property or any interest therein;
- (9) To borrow money and otherwise contract indebtedness, to issue its obligations therefor, and to secure the payment thereof by mortgage, pledge, or deed of trust of all or any of its property, assets, franchises, revenues, or income;
- (10) To sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property and assets;
- (11) To have and exercise the power of eminent domain for the purpose and in the manner provided by the condemnation laws of this State for acquiring private property for public use, such right to be paramount except as to property of the State, or of any political subdivision thereof;
- (12) To accept gifts or grants of money, services, or property, real or personal;
- (13) To make any and all contracts necessary or convenient for the exercise of the powers granted in this Act;
- (14) To fix, regulate, and collect rates, fees, rents, or other charges for electric energy and any other facilities, supplies, equipment, or services furnished by the corporation;
- (15) To conduct its business, and have offices within or without this State;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(16) To elect or appoint officers, agents, and employees of the corporation, and to define their duties and fix their compensation;

(17) To make and alter by-laws, not inconsistent with the articles of incorporation or with the laws of this State for the administration and regulation of the affairs of the corporation;

(18) To do and perform, either for itself or its members, or for any other corporation organized under this Act, or for the members thereof, any and all acts and things, and to have and exercise any and all powers as may be necessary, convenient, or appropriate to effectuate the purpose for which the corporation is organized.

Incorporators

Sec. 5. Any three or more natural persons of the age of twenty-one (21) years or more, residents of this State, may act as incorporators of a corporation to be organized under this Act by executing articles of incorporation as hereinafter provided in this Act.

Articles of incorporation

Sec. 6. (a) The articles of incorporation shall state:

(1) The name of the corporation, which name shall include the words "Electric Cooperative" and the word "Corporation," "Incorporated," "Inc.," "Association," or "Company" and the name shall be such as to distinguish it from any other corporation organized and existing under the laws of this State;

(2) The purpose for which the corporation is formed;

(3) The names and addresses of the incorporators who shall serve as directors and manage the affairs of the corporation until its first annual meeting of members, or until their successors are elected and qualify;

(4) The number of directors, not less than three (3), to be elected at the annual meetings of members;

(5) The address of its principal office and the name and address of its agent upon whom process may be served;

(6) The period of duration of the corporation, which may be perpetual;

(7) The terms and conditions upon which persons shall be admitted to membership and retain membership in the corporation, but if expressly so stated the determination of such matters may be reserved to the directors by the by-laws;

(8) Any provisions, not inconsistent with law, which the incorporators may choose to insert, for the regulation of the business and the conduct of the affairs of the corporation.

(b) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

Prohibition on use of words "electric cooperative"

Sec. 7. The words "Electric Cooperative" shall not be used in the corporate name of corporations organized under the laws of this State, or authorized to do business herein, other than those organized pursuant to the provisions of this Act.

Execution, filing, and recording of articles of incorporation

Sec. 8. When the incorporators of any corporation shall furnish satisfactory evidence to the Secretary of State of a compliance with the provisions of this Act, said officer shall receive, file, and record the articles of incorporation of such corporation in his office, upon application

and payment of all fees therefor, and give a certificate showing the recording of such articles and authority to do business thereunder. The articles shall thereupon be filed in the office of the Secretary of State, who shall record same at length in a book to be kept for that purpose, and retain the original on file in his office. A copy of the articles, or of the record thereof, certified under the Great Seal of the State, shall be evidence of the creation of the corporation. The existence of the corporation shall date from the filing of the articles in the office of the Secretary of State. The certificate of the Secretary of State shall be evidence of such filing.

Renewal of articles of incorporation

Sec. 9. Any corporation organized under this Act, whose articles of incorporation have expired by limitation, may revive such articles with all the privileges and immunities and rights of property, real and personal, exercised and held by it at the time of the expiration of its said articles, by filing with the consent of a majority of its members, new articles of incorporation under the provisions of this Act, reciting therein such original privileges, immunities, and rights of property, and by filing therewith a certified copy of such original expired articles.

Organization Meeting

Sec. 10. After the issuance of the certificate of incorporation, an organization meeting shall be held, at the call of a majority of the incorporators, for the purpose of adopting by-laws and electing officers and for the transaction of such other business as may properly come before the meeting. The incorporators calling the meeting shall give at least three (3) days' notice thereof by mail to each incorporator, which notice shall state the time and place of the meeting but such notice may be waived in writing.

By-laws

Sec. 11. The power to make, alter, amend, or repeal the by-laws of the corporation shall be vested in the Board of Directors. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

Qualification of members

Sec. 12. All persons in rural areas proposed to be served by a corporation, who are not receiving central station service, shall be eligible to membership in a corporation. No person other than the incorporators shall be, become, or remain a member of a corporation unless such person shall use or agree to use electric energy or, as the case may be, the facilities, supplies, equipment, and services furnished by a corporation. A corporation organized under this Act may become a member of another such corporation and may avail itself fully of the facilities and services thereof.

Meeting of members

Sec. 13. (a) Meetings of members may be held at such place as may be provided in the by-laws. In the absence of any such provision, all meetings shall be held in the principal office of the corporation in this State.

(b) An annual meeting of the members shall be held at such time as may be provided in the by-laws. Failure to hold the annual meeting at the designated time shall not work forfeiture or dissolution of the corporation.

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(c) Special meetings of the members may be called by the president, by the Board of Directors, or a majority thereof, by a petition signed by not less than one-tenth of all the members or by such other officers or persons as may be provided in the articles of incorporation or the by-laws.

Notice of members' meetings

Sec. 14. Written or printed notice stating the place, day, and hour of the meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the president or the secretary, or the officers or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mails in a sealed envelope addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid. Notice of meetings of members may be waived in writing.

Voting by members

Sec. 15. Each member present shall be entitled to one and only one vote on each matter submitted to a vote at a meeting of members, but voting by proxy or by mail may be provided for in the by-laws.

Certificate of membership

Sec. 16. When a member of a corporation has paid the membership fee in full, a certificate of membership shall be issued to such member. Memberships in the corporation and the certificates shall be non-transferable. The certificate of membership shall be surrendered to the corporation upon the resignation, expulsion, or death of the member. Except for debts lawfully contracted between him and the corporation, no member shall be liable for the debts of the corporation to an amount exceeding the sum remaining unpaid on his membership fee.

Quorum of members

Sec. 17. Unless otherwise provided in the articles of incorporation, a majority of the members present, in person or represented by proxy, shall constitute a quorum for the transaction of business at a meeting of members, but if voting by mail is provided for in the by-laws, members so voting shall be counted as if present.

Board of directors

Sec. 18. The business and affairs of a corporation shall be managed by a Board of Directors, not less than three (3) in number, which shall exercise all the powers of the corporation except such are conferred upon the members by this Act, by the articles of incorporation or by the by-laws of the corporation. The by-laws may prescribe qualifications for directors.

Election, qualification, and compensation of directors

Sec. 19. The directors, other than those named in the certificate of incorporation to serve until the first annual meeting of members, shall be elected annually, or as otherwise provided in the by-laws, by the members. The directors shall be members of the corporation and shall be entitled to such compensation and reimbursement for expenses actually and necessarily incurred by them as may be provided in the by-laws.

Vacancies

Sec. 20. Any vacancy occurring in the Board and any directorship to be filled, shall be filled as provided in the by-laws by persons who shall serve until directors may be regularly elected as provided for in this Act.

Quorum of directors

Sec. 21. A majority of the Board shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the by-laws. The act of the majority of the directors, present at a meeting at which a quorum is present, shall be the act of the Board, unless the act of a greater number is required by the articles of incorporation or the by-laws.

Directors' meetings

Sec. 22. Meetings of the Board, regular or special, shall be held at such place and upon such notice as the by-laws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Officers, agents, and employees

Sec. 23. (a) The Board shall elect from its number a president, a vice-president, a secretary, and a Treasurer, but the same person may be elected to the office of secretary and treasurer. The powers and duties of the foregoing officers, as well as their term of office and compensation shall be provided for in the by-laws.

(b) The Board shall appoint such other officers, agents, and employees as it deems necessary and fix their powers, duties, and compensation.

(c) Any officer, agent, or employee elected or appointed by the Board, may be removed by it whenever in its judgment the best interests of the corporation will be served.

Executive committee

Sec. 24. Any corporation may, by its by-laws, provide for an executive committee to be elected from and by its Board of Directors. To such committee may be delegated the management of the current and ordinary business of the corporation, and such other duties as the by-laws may prescribe, but the designation of such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by this Act.

Non-profit operation

Sec. 25. (a) Each corporation shall be operated without profit to its members but the rates, fees, rents, or other charges for electric energy and any other facilities, supplies, equipment, or services furnished by the corporation shall be sufficient at all times.

(1) To pay all operating and maintenance expenses necessary or desirable for the prudent conduct of its business and the principal of and interest on the obligations issued or assumed by the corporation in the performance of the purpose for which it was organized, and

(2) For the creation of reserves.

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(b) The revenues of the corporation shall be devoted first to the payment of operating and maintenance expenses and the principal and interest on outstanding obligations, and thereafter to such reserves for improvement, new construction, depreciation, and contingencies as the Board may from time to time prescribe.

(c) Revenues not required for the purposes set forth in Sub-section (b) of this Section shall be returned from time to time to the members on a pro rata basis according to the amount of business done with each during the period, either in cash, in abatement of current charges for electric energy, or otherwise as the Board determines; but such return may be made by way of general rate reduction to members, if the Board so elects.

Amendment of articles of incorporation

Sec. 26. A corporation may amend its articles of incorporation by a majority vote of the members, present in person or by proxy at any regular meeting, or at any special meeting, of its members called for that purpose. The power to amend shall include the power to accomplish any desired change in the provisions of its articles of incorporation and to include any purpose, power, or provision which would be authorized to be included in original articles of incorporation if executed at the time the amendment is made. Articles of amendment signed by the president or vice-president, and attested by the secretary certifying to such amendment and its lawful adoption shall be executed, acknowledged, filed, and recorded in the same manner as the original articles of incorporation of a corporation organized under this Act; and as soon as the Secretary of State shall have accepted the articles of amendment for filing and recording, and issued a certificate of amendment, the amendment or amendments shall be in effect and the certificate of the Secretary of State shall be evidence of such filing.

Consolidation

Sec. 27. (a) Any two or more corporations may enter into an agreement for the consolidation of such corporations. The agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, not less than three (3), the time of the annual meeting and election, and the name of at least three (3) persons to be directors until the first annual meeting. If such agreement is approved by the votes of a majority of the members of each corporation, present in person or by proxy at any regular meeting, or at any special meeting, of its members called for that purpose, the directors named in the agreement shall sign and acknowledge as incorporators articles of consolidation conforming substantially to original articles of incorporation of a corporation organized under this Act.

(b) The articles of consolidation shall be executed, acknowledged, filed, and recorded in the same manner as the original articles of incorporation of a corporation organized under this Act. As soon as the Secretary of State shall have accepted the articles of consolidation for filing and recording and issued a certificate of consolidation, the proposed consolidated corporation, described in the articles under its designated name, shall be and become a body corporate, with all of the powers of a corporation as originally organized hereunder.

Dissolution

Sec. 28. (a) Any corporation may dissolve by majority vote of the members, present in person or by proxy at any regular meeting, or at any special meeting, of its members called for that purpose. A certifi-

cate of dissolution shall be signed by the president or vice-president and attested by the secretary, certifying to such dissolution and stating that they have been authorized to execute and file such certificate by votes cast in person or by proxy by a majority of the members of the corporation. A certificate of dissolution shall be executed, acknowledged, filed, and recorded in the same manner as the original articles of incorporation of a corporation organized under this Act and as soon as the Secretary of State shall have accepted the certificate of dissolution for filing and recording and issued a certificate of dissolution, the corporation shall be deemed to be dissolved.

(b) Such corporation shall, however, continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall be distributed pro rata among the members of the corporation at the time of the filing of the certificate of dissolution.

(c) Any corporation which purports to have been incorporated or re-incorporated under this Act but which has not complied with all of the requirements for legal corporate existence may nevertheless file a certificate of dissolution in the same manner as a validly existing corporation. The certificate of dissolution, in such case, may be authorized by a majority of the incorporators or directors at a meeting called by any incorporator upon ten (10) days' notice mailed to the last known post-office address of each incorporator or director, and held at the principal office of the corporation named in the articles of incorporation.

Fees

Sec. 29. The Secretary of State shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, Ten Dollars (\$10).

(2) Filing of articles of amendment and issuing a certificate of amendment, Two Dollars and Fifty Cents (\$2.50).

(3) Filing articles of consolidation and issuing a certificate with respect thereto, Ten Dollars (\$10).

(4) Filing articles of dissolution, Two Dollars and Fifty Cents (\$2.50).

Exemption from excise taxes—license fee

Sec. 30. Corporations formed hereunder shall pay annually, on or before May first, to the Secretary of State, a license fee of Ten Dollars (\$10) and such corporations shall be exempt from all other excise taxes of whatsoever kind or nature.

Limited exemption from securities act

Sec. 31. Whenever any corporation organized under this Act shall have borrowed money from any Federal agency, the obligations issued to secure the payment of such money shall be exempt from the provisions of the Texas Securities Act, (Chapter 100, Acts of the Forty-fourth Legislature, Regular Session), or any Acts amendatory thereof, nor shall the provisions of said Act apply to the issuance of membership certificates.

Defectively organized corporations

Sec. 32. In the event any corporation has filed defective articles of incorporation or has failed to do all things necessary to perfect its corporate organization, it may, nevertheless, file corrected articles of incorporation or amend the original articles and do and perform all acts

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and things necessary in the premises for the correction of such defects. The action so taken shall be valid and binding upon all persons concerned and the capacity of such corporation to file corrected articles of incorporation or amendments to the original articles, or to do and perform all acts and things necessary in the premises shall not be questioned.

Act extended to existing corporations

Sec. 33. Any existing cooperative or nonprofit corporation or association, organized under any other law of this State, for the purpose of engaging in rural electrification, may, by a majority vote of the members present in person or by proxy at a meeting called for that purpose, amend its articles of incorporation so as to comply with this Act.

Construction of act

Sec. 34. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.

Separability of provisions

Sec. 35. If any provision of this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Act complete in itself

Sec. 36. This Act is complete in itself and shall be controlling. The provisions of any other law of this State, except as provided in this Act, shall not apply to a corporation organized, or in process of organization, under this Act. [Acts 1937, 45th Leg., H.B. # 599.]

Effective April 1, 1937.

Section 37 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the organization of cooperative, non-profit, membership corporations for the purpose of engaging in rural electrification; defining terms; defining the powers and duties of such corporations; providing for the number of incorporators; providing the manner in which such corporations may be organized and prescribing the contents of the articles of incorporation; prohibiting the use of the words "Electric Cooperative" by other corporations; providing for the execution, filing and recording of articles of incorporation and for the renewal of articles of incorporation; providing for the organization meeting, by-laws, qualifications of members, meetings of members, notice of members' meetings, voting by members, certificates of membership, and exempting members from liability for the debts of the corporation, and quorum of members; providing for a Board of Directors and for the election, qualification, and compensation of directors, for the filling

of vacancies on the Board of Directors, for directors' meetings, for the election of officers and selection of agents and employees, and for the appointment of an executive committee; providing that such corporations shall be operated without profit and providing for the conduct and business management of such corporations; providing for the amendment of articles of incorporation, and for the consolidation and dissolution of such corporations; prescribing filing fees; providing for an annual license fee for such corporations and exempting such corporations from all other excise taxes; providing a limited exemption of all such corporations from the provisions of the Texas Securities Act, (Chapter 100, Acts of the Forty-fourth Legislature, Regular Session); providing that defectively organized corporations under this Act may perfect their corporate organizations; extending the provisions of this Act to certain existing corporations; providing for the construction of the Act; declaring the terms and provisions of this Act to be severable; providing that this Act shall be complete in itself, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 599.]

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art. 1580. [1373] [797] [684] Agents to contract for county

Acts 1933, 43rd Leg., p. 110, ch. 55, as amended by Acts 1937, 45th Leg., H.B. # 970, read as follows:

"Section 1. In all counties in this State having a population of more than one hundred thousand (100,000) inhabitants and less than one hundred and fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two (2) cities of fifty thousand (50,000) inhabitants, or more, each, as shown by the latest United States Census, the Commissioners Court of such county shall appoint a suitable person who shall act as County Purchasing Agent for such county, who shall hold his office at the pleasure of the Commissioners Court or a majority thereof; it shall be the duty of such agent to make all purchases for such county of all supplies, materials, and equipment required or used by such county or by a subdivision, officer, or employee thereof excepting such purchases as may by law be required to be made by competitive bids, and to contract for all repairs to property used by such county, its subdivisions, officers, and employees, except such as by law are required to be contracted for by competitive bids. All purchases made by such agent shall be paid for by warrants drawn by the County Auditor on the County Treasurer of such county as in the manner now provided by law. It shall be unlawful for any person, firm, or corporation, other than such Purchasing Agent, to purchase any supplies, materials, and equipment for, or to contract for any repairs to property used by such county or any subdivision, officer, or employee thereof, and no warrant shall be drawn by the County Auditor or honored by the County Treasurer of any such county for any purchases except by such agent and those made by competitive bid as now provided by law. On the 1st day of July of each year such Purchasing Agent shall file with the Commissioners Court of such county an inventory of all property of the county and of each subdivision, officer, or employee thereof then on hand, and it shall be the duty of the County Auditor to carefully examine such inventory and to make an accounting for all property purchased or previously inventoried and not appearing in such inventory. In order to prevent unnecessary purchases, such agent shall have authority and it shall be his duty to transfer county supplies, materials, and equipment from any subdivision, department, officer, or employee of the county when such supplies, materials, or equipment are not ac-

tually needed or used by such subdivision, department, officer, or employee to any such subdivision, department, officer, or employee that may require such supplies, and materials, or the use of such equipment; and such agent shall furnish to the County Auditor a list of such supplies, materials, and equipment so transferred. Such agent shall receive, as compensation for his services, a salary not to exceed Three Thousand Dollars (\$3,000) per year, payable in equal monthly installments. Eighty (80) per cent of such salary shall be paid out of the Road and Bridge Fund and twenty (20) per cent thereof out of the General Fund of such county by warrants drawn on the County Treasurer by the County Auditor.

"Sec. 2. It shall be the duty of such Purchasing Agent to supervise all purchases made on competitive bid and to see that all supplies, materials, and equipment contracted for, are delivered to the proper county officer or department in accordance with the contract of purchase.

"Sec. 3. Such County Purchasing Agent in making purchases for the county, as above provided, shall be governed by and subject to the "Uniform Budget Law" and to all other laws governing the purchase of supplies, materials, and equipment for the use of the county, its subdivisions, officers, and employees.

"Sec. 4. The provisions of this Act shall apply to all purchases of supplies, materials, and equipment for the use of the county and its officers whether contracted for by the Commissioners Court, or any officer authorized to bind the county by contract and shall include purchases made by officers payable out of fees of office or otherwise. It is the intention of this Act to cover all purchases of supplies, materials, and equipment of every kind and character. Any officer making such purchases out of fees of office shall not be entitled to deduct the amount of said purchases from the amount of excess fees, if any, due the county.

"Sec. 5. Any officer, agent, or employee of such county, its subdivisions, or departments, or any other person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Two Hundred Dollars (\$200), nor more than One Thousand Dollars (\$1,000) or imprisoned in the county jail for not less than thirty (30) days nor more than one year, or by both such fine and imprisonment."

Amendment of 1937, effective May 10, 1937.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 1581a. County Home Rule Charters; Adoption [Ineffective]

This article, (Acts 1933, 43rd Leg., p. 784, ch. 232) which was passed in anticipation of the amendment to Const. art. IX, section 3, adopted Aug. 26, 1933, providing for County Home Rule, was made ineffective by Acts 1933, 43rd Leg., 1st C.S. p. 249, ch. 91 (article 1606a of this title). Section 21 of such Act of the First Called Session provided "The anticipatory enabling Act passed at the Regular Session of the Forty-third Legislature (known as Chapter 232 of the General Laws of the Regular

Session of the Forty-third Legislature) shall not have effect after the instant at which this Act may be in effect, but all procedures taken thereunder (relating to the formulation, circulation, presentation and prosecution of petitions, including all orders and notices of commissioners courts relative to such petition conventions held or other acts done) hereby are validated, to the same effect as though the same had been had and done hereunder."

CHAPTER FIVE—COUNTY SEATS

Art. 1605. [1399] Location of offices; branch offices discretionary with commissioner court; bonds of deputies

The County Judge, Sheriff, Clerks of the District and of the County Courts, County Treasurer, Assessor and Collector of taxes, County Surveyor and County Attorney of the several counties of this State, shall keep their offices at the county seats of their respective counties; provided, however, that in all counties having a city or cities, other than the county seats, within their boundaries, having a population of five thousand (5,000) and over, and in counties of over three hundred fifty thousand (350,000), according to the last Federal Census, the Assessor and Collector of Taxes when authorized by Order of the Commissioners' Court may maintain a branch office in said city or cities, and may appoint one or more Deputies for said offices, and the salaries to be paid said Deputies together with the office rent and other expenses incidental to maintaining said offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes and shall be paid in the manner now provided by law for the payment of the expenses of the Assessor and Collector of Taxes; and provided further that in all counties having a population of more than seventy-four thousand (74,000), according to the last Federal Census, and containing one or more cities or towns, other than the county seat, which has in excess of one thousand (1,000) inhabitants, according to the last Federal Census, said Tax Assessor and Collector with the consent and approval of the Commissioners' Court may maintain a branch office and may appoint a Deputy Tax Collector in each such town or city, who shall have the right to collect taxes from all persons who desire to pay their taxes to him, and to issue a valid receipt therefor. Such Deputy shall enter into such bond, payable to the County Judge of the County, as the Tax Assessor and Collector and Commissioners' Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such Deputy Collector and the period of time he shall hold such office shall be fixed by the Commissioners' Court and such Deputy Collector shall be subject to all of the terms and provisions of the law relating to Deputy Tax Collectors. The Tax Collector shall remain liable on his bonds for all taxes collected by such Deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the Tax Collector or such Deputy. Nothing contained herein shall be construed as making it mandatory upon the Assessor and Collector of Taxes and the Commissioners' Courts of such counties to maintain such branch offices and appoint such Deputies, but the establishment of such branch offices and the appointment shall wholly be within the discretion of the Commissioners' Courts of such counties. When such branch office or offices are established and a Deputy or Depu-

ties are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes, and shall be paid as now provided by law for the payment of the expenses of the Assessor and Collector of Taxes. [As amended Acts 1931, 42nd Leg., p. 819, ch. 338, § 1; Acts 1937, 45th Leg., S. B. # 268, § 1.]

Effective March 12, 1937.

Section 2. of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

TITLE 34—COUNTY FINANCES

2. COUNTY AUDITOR

Art.

- 1645a. County auditors in counties of 19,-150 to 19,175 inhabitants [New].
- 1645a—1. County auditors in certain counties to act as purchasing agents; compensation; auditors for school districts [New].
- 1645a—2. County auditor's office in counties of 28,700 to 29,000 abolished; county auditors in counties of 27,545 to 27,555 population [New].
- 1645a—3. Appointment of county auditors in counties of 20,100 to 20,150 population and less than \$15,-000,000 tax valuation [New].
- 1645b. County auditor's salary in counties of 42,100 to 42,500 [New].
- 1645c. Compensation of county auditors in counties of 49,010 to 49,100 population [New].

Art.

- 1645c—1. Compensation of county auditors in counties of 77,700 to 80,000 population [New].
- 1645d. Compensation of County Auditors in counties of 39,100 to 39,200 population [New].
- 1645d—1. Compensation of county auditors in counties of 45,000 to 50,000 population [New].
- 1645e. Compensation of county auditors in counties of 190,000 to 200,000 population [New].
- 1645e—1. Compensation of County Auditors in certain counties [New].
- 1645f. Additional duties of county auditors in counties of 190,000 to 200,000 population having city and county hospital [New].
- 1645g. Audits and reports respecting certain monies by county auditors in counties of 320,000 to 350,000 population [New].

2. COUNTY AUDITOR

Art. 1645. [1460] Appointment authorized in certain counties—Compensation

In any county having a population of thirty-five thousand inhabitants or over, according to the preceding Federal Census, or having a tax valuation of Fifteen Million Dollars (\$15,000,000), or over, according to the last approved tax roll, there shall be biennially appointed an Auditor of Accounts and Finances, the title of said officer to be county auditor, who shall hold his office for two (2) years, and who shall receive as compensation for his services One Hundred Twenty-five Dollars (\$125) for each million dollars, or major portion thereof on the assessed valuation, the annual salary to be computed from the last approved tax roll; said annual salary from county funds shall not exceed Three Thousand Six Hundred Dollars (\$3,600). Provided, that in all counties of not less than thirty-five thousand (35,000), nor over thirty-seven thousand (37,000) inhabitants according to the 1920 Federal Census, and in all counties of not less than forty-three thousand, five hundred (43,500), nor over forty-four thousand (44,000) inhabitants, according to the said 1920 Federal Census the salary shall not be less than Two Thousand Four Hundred Dollars (\$2,400) annually, said salary to be paid monthly out of the General Revenue of the county upon an order of the Commissioners Court. Provided further, that in counties having more than two hundred thousand (200,000) population and not more than three hundred thousand (300,000) population according to the last Federal Census where there is a City and County Hospital to care for the city and county patients, and where a financial record for such hospital must be kept and reports made to the City and County, the auditor shall in addition to the regular duties performed by him as required by law, keep such financial record of such hospital, and make such report to the executive bodies of the City and County, the Mayor and City Commissioners for the City, and the County Judge and County Commissioners for the County, and shall receive for such additional services rendered in compiling the necessary reports and records, and keeping

such financial record, an additional sum of One Thousand Two Hundred Dollars (\$1,200) per annum payable monthly, out of the fund created for said hospital. In all counties having a population of not less than twenty-nine thousand, four hundred (29,400) to twenty-nine thousand, five hundred (29,500) the county auditor shall receive not to exceed Eighteen Hundred Dollars (\$1800) per year. [As amended Acts 1927, 40th Leg., 1st C.S., p. 104, ch. 35, § 1; Acts 1929, 41st Leg., 1st C.S., p. 62, ch. 28, § 1; Acts 1931, 42nd Leg., 2nd C.S., p. 29, ch. 15, § 1; Acts 1937, 45th Leg., 1st C.S., H.B. # 73, § 3.]

Effective July 7, 1937.

Emergency section. See note under article 3901—1, post.

Art. 1645a. County auditors in counties of 19,150 to 19,175, inhabitants

In any county having a population of not less than nineteen thousand, one hundred and fifty (19,150) nor more than nineteen thousand, one hundred and seventy-five (19,175) according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be 'County Auditor,' who shall hold his office for two (2) years and who shall receive as compensation for his services the sum of Eighteen Hundred Dollars (\$1800) per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners Court. [As added Acts 1937, 45th Leg., H.B. #1122, § 1.]

Effective May 10, 1937.

Section 2 of this act declared an emergency and provided that the act should take effect from and after its passage.

Acts 1937, 45th Leg., S.B. # 472, § 1, but such article is designated as 1645a-1 for the purpose of clarity.

Another Article 1645a was added by

Art. 1645a—1. County auditors in certain counties to act as purchasing agents; compensation; auditors for school districts

That in all counties having a population of not less than twenty-four thousand one hundred and twenty-five (24,125) nor more than twenty-four thousand one hundred and fifty (24,150) according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, when so directed by order of the Commissioners' Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent, a sum not to exceed Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the general revenue of such county. Provided that in all counties having a population of not less than forty-three thousand (43,000) and not more than forty-three thousand one hundred (43,100) according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the general revenue of such county. Provided, further, that in all counties having a population in excess of sixty-five thousand (65,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not more than Forty Million (\$40,000,000.00) Dollars, according to the last approved tax rolls, and containing at least

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two incorporated cities of more than thirteen thousand five hundred (13,500) population each, according to the last preceding Federal Census, such Auditor shall, in addition to his regular duties as Auditor, constitute the Purchasing Agent of such county when so directed by order of the Commissioners' Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed Nine Hundred (\$900.00) Dollars annually, payable in twelve (12) equal monthly installments, and such compensation shall be in addition to that allowed by law for such Auditor, and payable out of the general revenue of such county. Provided, further, that the County Auditor in all counties having a population of more than three hundred twenty thousand (320,000) and less than three hundred fifty-five thousand (355,000) inhabitants, according to the last preceding Federal Census, shall hereinafter be the Auditor for all of the Common School Districts of such counties, and as such Auditor shall prescribe the system of accounting to be used by such Common School Districts, and shall have full authority to make all reasonable rules and regulations, regulating the manner in which all accounts shall be kept, and to require such reports of the County School Superintendent, and the Common School District Trustees, as in his judgment are best for the proper accounting of such fund; he shall have authority to require the School Depository, the County Superintendent, and all Common School District Trustees, or any other person that has custody or control of any school fund, a detailed report of their records, and at the close of each fiscal year, he shall make a detailed audit of all records and accounts that concern the Common School Fund, and file his report with the Commissioners' Court of said county; and all of the moneys belonging to the Common School District System in such counties shall be deposited in the Depository when received, and, thereafter, the Depository in such counties shall not pay out any such money of the Common School District, unless the bill, account, or claim has been audited and approved, and the checks drawn against same are countersigned by the County Auditor, and the County Purchasing Agent of such counties shall act as Purchasing Agent for Common School Districts of the county, and all purchases of every kind and character shall be made by such Purchasing Agent on competitive bids in the same manner, and subject to the same restrictions, as purchases for the county are made. [As added Acts 1937, 45th Leg., S.B. # 472, § 1.]

Effective May 14, 1937.

Section 2 of this act reads as follows:

"Sec. 2. If any section, sentence or any part whatever of this Act should be held to be unconstitutional or invalid, the same shall not affect the remaining portion of this Act and it is hereby declared that the Legislature would have passed that part which is constitutional and valid."

Section 3 of this Act declared an emer-

gency and provided that the Act should take effect from and after its passage.

The Act of 1937, cited to the text, purported to amend article 1645, ante, by "adding a section to be known as Article 1645a," as set out in this article. In view of fact that the Legislature had already designated a new section as article 1645a, the text of this amendment is designated as article 1645a-1. See note to article 1645a, ante.

Art. 1645a—2. County auditor's office in counties of 28,700 to 29,000 abolished; county auditors in counties of 27,545 to 27,555 population

Section 1. No county having a population of not less than twenty-eight thousand seven hundred (28,700), nor more than twenty-nine thousand (29,000), according to the last preceding, or any future Federal Census, shall have a county auditor, and the office of county auditor is hereby abolished, in any and all such counties, and the duties of the office of county auditor, in any such counties, shall be performed by such other officers of the county, as may be provided by General Law.

Sec. 1-a. In any county having a population of not less than twenty-seven thousand five hundred forty-five (27,545), nor more than twenty-seven thousand five hundred fifty-five (27,555), according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be 'County Auditor,' who shall hold his office for two (2) years and who shall receive as compensation for his services not less than Eighteen Hundred (\$1800.00) Dollars nor more than Twenty-four Hundred (\$2400.00) Dollars per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners' Court. [Acts 1937, 45th Leg., 1st C.S., S.B. # 25.]

Effective July 6, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that no county having a population of not less than twenty-eight thousand seven hundred (28,700), nor more than twenty-nine thousand (29,000), according to the last preceding, or future Federal Census, shall have a county audi-

tor; abolishing the office of county auditor in any such county; providing that any county having a population of not less than twenty-seven thousand five hundred forty-five (27,545), nor more than twenty-seven thousand five hundred fifty-five (27,555), shall have a county auditor and providing for compensation thereof; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., S.B. # 25.]

Art. 1645a—3. Appointment of county auditors in counties of 20,100 to 20,150 population and less than \$15,000,000 tax valuation

Section 1. In any county having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150), according to the last preceding Federal Census, and having a tax valuation of less than Fifteen Million Dollars (\$15,000,000), according to the last approved tax roll, if the Commissioners Court of such county shall determine that an auditor is a public necessity in the dispatch of the business of the county, such Commissioners Court may enter an order so stating and may appoint an auditor of accounts and finances, the title of said office to be "County Auditor," who shall qualify and perform all the duties required of County Auditors in this State, and who shall receive as compensation for his services a salary not to exceed Eighteen Hundred Dollars (\$1800) annually; said salary to be set by the Commissioners Court and to be paid monthly out of the General Revenue of the county upon order of the Commissioners Court; provided the Commissioners Court may by its order discontinue such office at any time it may find such office is not a public necessity. [Acts 1937, 45th Leg., 2nd C.S., H.B. #116, § 1.]

Effective Nov. 3, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that a County Auditor may be appointed in any county having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150), according to the last preceding

Federal Census, and having a taxable value of less than Fifteen Million Dollars (\$15,000,000), according to the last approved tax roll; providing that Commissioners Court in such county may by order determine the necessity for such office as well as by order may discontinue such office; providing compensation and the fund from which it shall be paid; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 116.]

Art. 1645b. County auditor's salary in counties of 42,100 to 42,500

In all counties containing a population of not less than 42,100 nor more than 42,500 according to the Federal Census of 1930, the County Auditor shall receive a salary not less than \$3,600.00 per annum, payable in equal monthly installments upon order of the Commissioners Court. [Acts 1937, 45th Leg., H.B. 568, § 1.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Effective April 1, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

The Act of 1937, cited to the text, purported to amend Article 1645, ante, by "adding a section to be known as Article 1645b" as set out in this article.

Art. 1645c. Compensation of county auditors in counties of 49,010 to 49,100 population

In every county in this State having a population of not less than forty-nine thousand, ten (49,010) nor more than forty-nine thousand, one hundred (49,100) inhabitants according to the last preceding United States Census, the compensation of each County Auditor shall be Three Thousand Dollars (\$3,000) per annum to be paid in equal monthly installments out of funds of said county. [Acts 1937, 45th Leg., H.B. #1180, § 1.]

Effective May 28, 1937.

See article 1645c—1, and note thereunder.

Section 2 repeals all conflicting laws and

parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1645c—1. Compensation of county auditors in counties of 77,700 to 80,000 population

In all counties in this State having a population of not less than seventy-seven thousand seven hundred (77,700) inhabitants nor more than eighty thousand (80,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, the County Auditor shall receive an annual salary from county funds of Forty-two Hundred Dollars (\$4200) to be paid in equal monthly installments out of the general revenues of the county. [Acts 1937, 45th Leg., 1st C.S., H.B. # 25, § 4.]

Effective July 1, 1937.

Emergency section. See note under article 1645e, post.

The Act of 1937, cited to the text, purported to amend article 1645, by "adding a

section thereto to be known as Article 1645c." As there is already another article designated by such number (Acts 1937, 45th Leg., H.B. # 1180, § 1) the new act appears herein as art. 1645c—1.

Art. 1645d. Compensation of county auditors in counties of 39,100 to 39,200 population

In all counties in this State having a population of not less than thirty-nine thousand, one hundred (39,100), nor more than thirty-nine thousand, two hundred (39,200), according to the last preceding United States Census, the County Auditor shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) equal monthly installments out of the General Funds of said county. [Acts 1937, 45th Leg., 2nd C.S., H.B. #71, § 1.]

Effective Nov. 3, 1937.

Section 2 repeals all conflicting laws and parts of laws; section 3 declared an emer-

gency and provided that the Act should take effect from and after its passage.

Art. 1645d—1. Compensation of county auditors in counties of 45,000 to 49,100 population

In all counties in this State having a population of not less than forty-five thousand (45,000) inhabitants nor more than fifty thousand (50,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, the County Auditor shall receive an annual salary from county funds of Four Thousand Dollars (\$4000) to be paid in equal monthly installments out of the general revenues of the county. [Acts 1937, 45th Leg., 1st C.S., H.B. # 25, § 5.]

Effective July 7, 1937.

Emergency section. See note under article 1645e, post.

Article 1645e. Compensation of county auditors in counties of 190,000 to 200,000 population

In every county in this State having a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000) inhabitants according to the last preceding United States Census, the compensation of each County Auditor shall be Forty-eight Hundred Dollars (\$4800) per annum to be paid in equal monthly installments out of funds of said county. [Acts 1937, 45th Leg., 1st C.S., H.B. # 25, § 1.]

Effective July 7, 1937.

Section 2 of Act 1937 cited to the text is published as art. 1645f, section 3 as art. 1645g, section 4 as 1645c--1, section 5 as 1645d. Section 6 repeals all conflicting laws and parts of laws. Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of County Auditors in every county having a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000) inhabitants according to the last preceding United States Census and prescribing how the same shall be paid; providing that in such counties where there is a city and county hospital that the County Auditor shall audit the books and records of such hospital and shall make reports to the county and city governments covering the operation of such hospital and fixing the compensation therefor and prescribing how the same shall be paid; authorizing, empowering and directing all County Audi-

tors in counties having a population of more than three hundred and twenty thousand (320,000) and less than three hundred and fifty thousand (350,000) persons, according to the last preceding Federal Census or any future Federal Census, to make a complete audit of any and all monies, property or funds of whatsoever kind or character received, expended or disposed of in any manner by the Superintendent of Public Instruction, the County Board of Trustees and/or County Superintendent of Schools in any such county, and providing that a copy of the auditor's report shall be filed with the Commissioners Court and with the County or District Attorney at the end of each fiscal year; amending Article 1645 of the Revised Civil Statutes of Texas of 1925, as amended by Chapter 15, Acts of the Forty-second Legislature, Second Called Session, by adding thereto two new sections to be known as Article 1645C and Article 1645D; repealing all laws in conflict herewith; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. # 25.]

Art. 1645e—1. Compensation of County Auditors in certain counties

That in every county in this State having a population of less than thirty-three thousand (33,000), according to the last preceding Federal Census, and having assessed property valuation of more than Eighty Million Dollars (\$80,000,000), according to the last approved tax rolls, the compensation of each County Auditor shall not exceed Four Thousand, Two Hundred Dollars (\$4,200); and in every county in this State having a population of not less than thirty-four thousand, one hundred and forty-five (34,145), nor more than thirty-four thousand, one hundred and sixty (34,160), according to the last preceding Federal Census, the County Auditor shall not receive more than Three Thousand Dollars (\$3,000) per year; that in every county in this State having a population of not less than forty-six thousand, one hundred and seventy-nine (46,179), nor more than forty-nine thousand, and twenty (49,020), according to the last preceding Federal Census, the compensation of each County Auditor shall be Three Thousand Dollars (\$3,000) per annum; and providing that in counties having a population of not less than forty-eight thousand, six hundred (48,600), nor more than forty-nine thousand (49,000), according to the last preceding Federal Census, the compensation of each County Auditor shall be Three Thousand, Six Hundred Dollars (\$3,600); such salaries to be payable in equal monthly installments. [Acts 1937, 45th Leg., 2nd C.S., H.B. #61, § 1.]

Effective Oct. 25, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of County Auditors in certain counties; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 61.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 1645f. Additional duties of county auditors in counties of 190,000 to 200,000 population having city and county hospital

That in counties having more than one hundred and ninety thousand (190,000) and not more than two hundred thousand (200,000) inhabitants according to the last Federal Census where there is a city and county hospital to care for the city and county patients, and where a financial record for such hospital must be kept and reports made to the city and county, the Auditor shall, in addition to the regular duties performed by him as required by law, keep such financial record of such hospital, and make such report to the executive bodies of the city and county, the Mayor and City Councilmen for the city, and the County Judge and County Commissioners for the county. [Acts 1937, 45th Leg., 1st C.S., H.B. # 25, § 2.]

Effective July 7, 1937.

Emergency section. See note under article 1645e, ante.

Art. 1645g. Audits and reports respecting certain monies by county auditors in counties of 320,000 to 350,000 population

All County Auditors in counties having a population of more than three hundred and twenty thousand (320,000) and less than three hundred and fifty thousand (350,000) persons by the last preceding Federal Census or any future Federal Census are hereby authorized, empowered and directed to make a complete audit of any and all monies, property or funds of whatsoever kind or character received, expended or disposed of in any manner by the Superintendent of Public Instruction, the County Board of Trustees and/or County Superintendent of Schools in any such county. A copy of the auditor's report shall be filed with the Commissioners Court and with the County or District Attorney at the end of each fiscal year. [Acts 1937, 45th Leg., 1st C.S., H.B. # 25, § 3.]

Effective July 7, 1937.

Emergency section. See note under article 1645e, ante.

TITLE 35—COUNTY LIBRARIES

2. LAW LIBRARY

Art.

1702b. County law libraries in certain counties [New].

2. LAW LIBRARIES

Art. 1702b. County law libraries in certain counties

Section 1. For the purpose of establishing "County Law Libraries" there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each case, Civil or Criminal, except suit for delinquent taxes, hereafter filed in every county and/or District Court, Civil or Criminal, in each county now or hereafter having three (3) or more District Courts, one of which sits and has jurisdiction in not less than two (2) other counties and none of which have more than four (4) terms a year; provided, however, that in no event shall the county be liable for said costs in any Civil or Criminal case, such costs shall be collected by the Clerk of the respective Courts in said counties and when collected, shall be paid by him to the County Treasurer to be kept by him in a separate fund to be known as the "County Law Library Fund"; such funds shall be administered by the Commissioners Court for the purchase and maintenance of a law library and the furniture and equipment necessary thereto in a place convenient and accessible to the Judges and litigants of such counties and for the payment of a salary to a librarian to be appointed by the Commissioners Court; provided, however, that said counties shall not use the funds collected under the provisions of this Act for any other purposes except the purposes above indicated. The Commissioners Court of counties affected by this Act shall make rules for the use of books in said library and provide space for housing same.

The salary of the custodian or librarian herein provided for shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

Sec. 2. This Act shall not have the effect of repealing or modifying any Act now in force respecting the establishment and maintenance of County Law Libraries in any county in this State but such Acts shall remain in full force and effect as to counties affected thereby. [Acts 1937, 45th Leg., H.B. #1010.]

Effective May 10, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act establishing a County Law Library in counties in this State having three or more District Courts sitting for all of its terms or some of its terms with both Civil and Criminal Jurisdiction, none of which have more than four (4) terms a year and one of which sits and has jurisdiction in not less than two (2) other counties; providing a fund to be administered by the

Commissioners Court to be raised by collecting One Dollar (\$1) as costs in each case filed in any of said Courts in said county except delinquent tax suits and including all Civil and Criminal County Court or District Courts; providing, however, that the county shall in no event be liable for any cost in any civil or criminal case; providing for a custodian or librarian and his salary; providing for housing and management; providing this Act shall not affect any other law now in effect with respect to any other county, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1010.]

TITLE 39—COURTS OF CIVIL APPEALS

CHAPTER ONE—TERMS AND JURISDICTION

Art. 1813. [1581] [988] Election and term of office; Commissioner appointed in case of disability of justice

(a) The Justices of each Court of Civil Appeals shall be elected at the general election by the qualified voters of their respective districts. Upon their qualification, after the first election after the creation of any Court of Civil Appeals, the Justices shall draw lots for the terms of office; those drawing number one shall hold for the term of two (2) years; those drawing number two shall hold for a term of four (4) years, and those drawing number three shall hold office for six (6) years. Each of said offices shall be filled by election at the next general election before the respective terms expire; and the person elected shall thereafter hold his office for six (6) years.

(b) After any Justice of any Court of Civil Appeals has become totally disabled to discharge any of the duties of his office, by reason of illness, physical or mental, and has remained in such condition continuously for a period of not less than one year, and if it is probable that such illness will be permanent, and is of such a nature that it will probably continue to incapacitate such Justice for the balance of his term of office, it shall be the duty of the other two Justices of the Court of which such incapacitated Justice is a member to certify such facts to the Governor. Upon receipt of such certificate by the Governor he shall make proper investigation touching the matters therein contained, and, if he shall determine that the facts contained in such certificate are true and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such Special Commissioner, when so appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court, and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(c) The Commissioner herein provided for, when appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Civil Appeals, and he shall serve until the death or expiration of the term of the disabled member, provided in no event shall the term of service continue for a longer time than two (2) years under the same appointment, and provided further that in the event the disabled Justice shall recover from his disability the term of such Special Commissioner shall immediately end. In the event of such recovery two (2) Justices of said Court shall certify such fact to the Governor and such certificate shall be conclusive evidence of the recovery of said disabled Justice.

(d) Nothing in this Act shall be considered as giving any two (2) members of any Court of Civil Appeals or the Governor the power or authority to remove or suspend any member of the Court of Civil Appeals from office, or to in any manner interfere with him in his constitutional rights and powers. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2108, ch. 509, § 1; Acts 1937, 45th Leg., H.B. #605, § 1.]

Amendment of 1937, effective April 14, 1937.

Section 2 of this Act reads as follows:
"Sec. 2. If any part of this law shall be declared unconstitutional, it is hereby declared to be the intent of the Leg-

islature to pass all constitutional portions thereof notwithstanding."

Section 3 of the amendatory acts of 1937 declared an emergency making the act effective on and after its passage.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art.

1934a—4. Stenographer for county judge in counties of 15,140 to 15,160 [New].

Art. 1934a—4. Stenographer for county judge in counties of 15,140 to 15,160

In any county in this State whose population as shown by the last preceding Federal Census is not more than fifteen thousand one hundred and sixty (15,160) and not less than fifteen thousand one hundred and forty (15,140) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or clerk at a salary of One Hundred (\$100.00) Dollars per month, such salary to be paid monthly by county warrants drawn on the county General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners' Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge. [Acts 1937, 45th Leg., S.B. #417, § 1.]

Effective April 26, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act authorizing the County Judge to employ a stenographer or clerk in any county having a population of not more

than fifteen thousand one hundred and sixty (15,160) and not less than fifteen thousand one hundred and forty (15,140) inhabitants according to the last preceding census; regulating the salary of same; providing for payment of salary; providing for removal and declaring an emergency. [Acts 1937, 45th Leg., S.B. #417.]

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

Art.

1970—314. Red River county court; jurisdiction increased [New].

1970—315. Jurisdiction of County Court of Collingsworth increased [New].

1970—316. Jurisdiction of county court of Sterling County increased [New].

Art.

1970—317. Crosby and Fisher County Courts, civil jurisdiction increased [New].

1970—318. Gillespie County Court; probate jurisdiction conferred; civil and criminal jurisdiction diminished [New].

Art. 1970—122. Salary of judge; fees collected and accounted for

The Judge of the County Court of Jefferson County at Law, shall receive a salary of Forty-five Hundred Dollars (\$4500) per annum, to be paid out of the County Treasury of Jefferson County, Texas, on order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court of Jefferson County at Law shall assess the same fees as are now prescribed by law relating to County Judges' fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw a salary as above specified in this Section. [As amended Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec.L., p. 49, ch. 42; Acts 1937, 45th Leg., H.B. #1052, § 1.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Amendment of 1937 effective June 8, 1937.

Section 2 of this Act read as follows:

"Sec. 2. All laws or parts of laws, in conflict herewith are hereby repealed as to those portions of such law, or laws, as are in conflict herewith."

Section 3 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

The title to the amending act of 1931 cites ch. 27 of Acts 1931, 42nd Leg., for amendment instead of ch. 295. Section 3 contains the provision that if any portion of the act is held invalid, such holding shall not invalidate the remainder.

[Art. 1970-301. County courts at Law Nos. 1 and 2 Bexar County]

Sec. 9. The Judges of the two County Courts at Law of Bexar County, Texas, may at any time exchange benches, and may at any time sit and act for and with each other in any civil or criminal case, matter or proceeding now and hereafter pending in either of the said County Courts at Law of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, or by the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters and proceedings. [Acts 1927, 40th Leg., p. 26, ch. 22, as amended Acts 1937, 45th Leg., S. B. #104, § 1.]

Effective March 8, 1937.

Section 8 of Acts 1937, 45th Leg., S.B. #104, expresses in substance the legislative intent merely to amend sections 9, 11, 14, and 15 and add sections 15A, 21A, and 21B, to the above act and provides that if any

section is held invalid, such invalidity shall not affect the remainder of the act. Section 9 repeals all conflicting laws and parts of laws. Section 10 declared an emergency and provided that the act should take effect from and after its passage.

Sec. Eleven (11). The Judges of the County Courts at Law of Bexar County, Texas, shall each take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof, but no bond shall be required of either of said Judges. The Judge of the County Court at Law No. 1, of Bexar County, Texas, shall receive an annual salary of Five Thousand Five Hundred (\$5,500.00) Dollars, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, also shall receive an annual salary of Five Thousand Five Hundred (\$5,500.00) Dollars; and said salary shall be paid to each of said Judges in equal monthly installments out of the general fund of Bexar County, Texas, by warrants drawn upon the county treasury of said county upon orders of the Commissioners' Court of Bexar County, Texas. [Acts 1927, 40th Leg., p. 26, ch. 22, as amended Acts 1933, 43rd Leg., Spec. L., p. 61, ch. 50, § 1; Acts 1935, 44th Leg., p. 715, ch. 309, § 1; Acts 1937, 45th Leg., S. B. #104, § 2.]

Effective March 8, 1937.

Emergency section. See note under section 9, ante.

Sec. 14. Special judges may be appointed or elected for either or both of the County Courts at Law of Bexar County, Texas, and in the same manner as may now or hereafter be provided by the general laws of this state relating to the appointment and election of a special judge or judges of the several district and county courts of this state; and every such special judge thus appointed or elected for either of said two courts shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services. The amount to be paid to such special judge shall be paid out of the general fund of Bexar County, Texas, by warrants drawn upon the county treasury of said county upon orders of the Commissioners' Court of Bexar County, Texas; but no part of the amount so paid to any special judge shall be deducted from or paid out of the salary of either of the regular judges of said respective County Courts at Law. [Acts 1927, 40th Leg., p. 26, ch. 22, as amended Acts 1937, 45th Leg., S. B. #104, § 3.]

Effective March 8, 1937.

Emergency section. See note under section 9, ante.

Sec. 15. The County Clerk of Bexar County, Texas, shall be the clerk of the County Court at Law No. 1, of Bexar County, Texas, and also the clerk of the

County Court at Law No. 2, of Bexar County, Texas. The seal of said courts shall be the same as provided by law for County Courts, except that the seal of the County Court at Law No. 1, of Bexar County, Texas, shall contain the words "County Court at Law No. 1, of Bexar County, Texas", and the seal of the County Court at Law No. 2, of Bexar County, Texas, shall contain the words "County Court at Law No. 2, of Bexar County, Texas." The County Clerk of Bexar County, Texas, shall, upon the taking effect of this Act or as soon thereafter as may be possible, appoint a deputy for each of the said County Courts at Law; provided, however, that the persons thus appointed must be acceptable to the respective judges of said courts, and such appointment for each of said courts must be confirmed in writing by the Judge thereof before it becomes effective. The said two deputies thus appointed shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof; and the County Clerk of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount, and conditioned and payable as may be prescribed by said clerk or provided by law. The said two deputies shall act in the name of their principal and they, and each of them, may do and perform all such official acts as may be lawfully done and performed by the said County Clerk in person; and it shall be the duty of each of said two deputies to attend all sessions of the County Court at Law at Bexar County, Texas, to which he has been appointed, and perform such services in and for said courts as are usually performed by the County Clerk and their deputies in the several County Courts of this State; and said two deputies shall also perform any and all other services that may from time to time be assigned them by the Judges of said courts. The County Clerk of Bexar County, Texas, and his several deputies, including the two deputies to be appointed for said courts as hereinabove provided, shall in all cases, both civil and criminal, pending in said courts when this Act takes effect, and also in all such cases thereafter filed in said courts, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the County Courts of this state and the Judges thereof in similar cases; and all such fees and costs, when collected by said County Clerk and his several deputies, as well as any and all other sums of money received by said County Clerk and his deputies in their official capacity, shall by said Clerk and deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner, as may be provided by law. The said two deputies to be appointed for said two courts are authorized to act for one another in any matter pertaining to the clerical business of said courts, and it shall be their duty to thus act for one another when requested to do so by the Judges of said Courts or by the said County Clerk; but such deputies acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The said two deputies shall, from and after their said appointment, confirmation and qualification, as herein provided, continue as such respective deputies at the pleasure of the Judges of said courts; and should either of said Judges for any reason whatsoever not further desire the services of said deputy clerk the County Clerk of Bexar County, Texas, shall, upon request of such Judge or Judges, appoint another deputy for such court or courts, such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy caused by any reason whatsoever the County Clerk of Bexar County, Texas, shall immediately appoint another deputy for the court in which a vacancy may occur, such appointment, however, shall be with written approval and confirmation of the Judge of the court in which a vacancy may occur. The salary of the deputy clerk appointed for each of the said County Courts at Law of Bexar County, Texas, shall be determined and fixed by the respective Judges of said courts in any amount not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars annually; said annual salaries to be paid to said deputy clerks in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the County Clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. However, before such monthly salaries are paid to said deputies the Judges of said courts shall cause to be filed with the County Clerk of Bexar County, Texas, or with the proper officer of said county, a written statement, signed by said Judges, certifying that said two deputies have performed the services required of them and that they are entitled to receive their said salaries, and such salaries of said deputies shall

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

be paid to them only upon such certificate being signed and filed by said Judges. Provided that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly stated. [Acts 1927, 40th Leg., p. 26, ch. 22, as amended Acts 1937, 45th Leg., S. B. #104, § 4.]

Effective March 8, 1937.

Emergency section. See note under section 9, ante.

Sec. 15-A. The Sheriff of Bexar County, Texas, shall by and through deputies to be appointed as hereinafter provided, attend all sessions of the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2 of Bexar County, Texas; and the Sheriff of Bexar County, Texas, shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one deputy for each of the said County Courts at Law of Bexar County, Texas; provided, however, that the persons thus appointed such deputies must be acceptable to the Judges of said courts, and said appointments for each of said courts must be approved and confirmed in writing by the Judge of said court before same becomes effective. The said deputy sheriffs shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof; and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount and conditioned and payable as may be prescribed by said Sheriff or provided by law. The said two deputies shall act in the name of their principal and they may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. The said two deputies shall, from and after their said appointment, confirmation and qualification, as hereinabove provided, continue as such respective deputies at the pleasure of the Judges of said courts; and should either of said Judges, for any reason whatsoever, not further desire the services of said deputy sheriffs, the Sheriff of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such court, such appointment, however, to be made in the manner as hereinabove provided. It shall be the duty of the said two deputies, who are to be appointed as herein provided, to attend all sessions of the said two courts and also perform and render such services in and for said courts, and for the Judges thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several district and county courts throughout this state, and including the serving of any and all process, subpoenas, warrants and writs of any and all kinds and nature, in both civil and criminal cases, matters and proceedings; and it shall be the duty of said deputy sheriffs to also perform and render any and all other services that may from time to time be assigned them, or to either of them, by the Judges of said courts. The said two deputies shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this state now or may hereafter have, possess and enjoy. The said deputy sheriff of the said County Court at Law No. 1, of Bexar County, Texas, and the said deputy sheriff of the said County Court at Law No. 2, of Bexar County, Texas, are authorized and empowered to act for one another, and it shall be their duty to so act for one another when required to do so by either of the Judges of said courts or by said Sheriff; but said deputies thus acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court in which a vacancy may occur, such appointment, however, to be subject to the approval and written confirmation of the Judge of the court in which such vacancy may exist. The salary of the said deputy appointed for each of said County Courts at Law of Bexar County, Texas, shall be determined and fixed by the Judge of said court in any sum not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars annually. The said annual salaries to be paid to said two deputies, when fixed by said Judges as herein provided, shall be paid to them in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salaries shall be made in the

manner provided by law. However, before such monthly salaries are paid to said deputy sheriffs the Judges of said courts shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said county, a written statement, signed by said Judges, certifying that said two deputies have performed and rendered the services required of them and that they are entitled to receive their said salaries. Provided that nothing contained in this section of this Act is intended to change or alter the duties and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly stated. [Acts 1927, 40th Leg., p. 26, ch. 22, § 15-A, as added Acts 1937, 45th Leg., S. B. #104, § 5.]

Effective March 8, 1937.

Emergency section. See note under section 9, ante.

Sec. 21-A. The terms of office of the Judge of the County Court at Law No. 1, of Bexar County, Texas, and of the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall be two years. The present Judge of each of said courts shall continue as such Judge thereof until the expiration of his present term of office, and until his successor shall have been duly elected or appointed and qualified, as hereinafter provided. At the next general election to be held within this state and in Bexar County, Texas, after the taking effect of this Act, to wit, the first Tuesday in the month of November, A. D. 1938, and every two years thereafter, at each general election, there shall be elected by the qualified voters of said county a Judge of each of said courts, both of whom shall be well informed in the laws of this State, and who shall hold their respective offices for a term of two years and until their successors shall have been duly elected or appointed and qualified; provided, however, that no person shall be eligible for Judge of either the said County Court at Law No. 1, of Bexar County, Texas, or the said County Court at Law No. 2, of Bexar County, Texas, unless he shall be a citizen of the United States and of this state, and shall have been a practicing lawyer of Bexar County, Texas, for at least four years next preceding his election, or is or has been a Judge of a court in this State. Should there be a vacancy in the office of Judge of either of said courts such vacancy shall by [be] filled by appointment by the Commissioners' Court of Bexar County, Texas, and the person or persons thus appointed shall hold such office until their successor, or successors, who shall be elected at the next general election to be held in Bexar County, Texas, after such appointment, shall have qualified according to law; and the person thus appointed shall have the qualifications hereinbefore specified for a Judge of said courts. [Acts 1927, 40th Leg., p. 26, ch. 22, § 21-A, as added Acts 1937, 45th Leg., S. B. #104, § 6.]

Effective March 8, 1937.

Emergency section. See note under section 9, ante.

Sec. 21-B. The practice in said County Courts at Law of Bexar County, Texas, shall be the same as prescribed by laws relating to County Courts. Appeals and writs of error may be taken from judgments and orders of said two County Courts at Law of Bexar County, Texas, and from judgments and orders of the Judges thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by laws relating to appeals and writs of error from judgments and orders of the County Courts throughout this state, and the respective Judges thereof, in similar cases. And appeals may be taken from interlocutory orders of the said two County Courts at Law appointing a receiver, and also from orders of the said two County Courts at Law overruling a motion to vacate an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this state. [Acts 1927, 40th Leg., p. 26, ch. 22, § 21-B, as added Acts 1937, 45th Leg., S. B. #104, § 7.]

Effective March 8, 1937.

Emergency section. See note under section 9, ante.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 1970—314. Red River County Court; jurisdiction increased

Section 1. That the County Court of Red River County, Texas, shall have and exercise the general jurisdiction of Probate Courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to issue writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are or may be provided by General Law governing County Courts throughout the State, and said County Court shall also have original concurrent jurisdiction with the District Court of said County in all criminal cases of which County Courts throughout the State, under the General Laws of the State, have jurisdiction; and said County Court shall also have appellate jurisdiction in all criminal cases appealed from Justice Courts; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Court of said County shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which by general laws of the State of Texas, the Court of said County would have jurisdiction, except as provided in Section 1 of this Act. [Acts 1936, 44th Leg., 3rd C.S., p. 2087, ch. 498, as amended, Acts 1937, 45th Leg., H.B. #665, § 1.]

Amendment of 1937, effective June 9, 1937.

Title of Act:

An Act to diminish the civil and criminal jurisdiction of the County Court of Red River County, Texas, and conform the jurisdiction of the District Court of such County to such change; repealing all laws in conflict, and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 2087, ch. 498.]

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the act should take effect from and after its passage.

Art. 1970—315. Jurisdiction of County Court of Collingsworth increased

Section 1. The County Court of Collingsworth County shall have and exercise original concurrent jurisdiction with the justice courts in all civil matters which by the General Laws of this State is conferred upon said justice of the peace courts.

Sec. 2. Said County Court of Collingsworth County shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment in said County Court in civil cases of which said court has appellate jurisdiction, or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 4. Nothing in this Act shall be construed to deprive the justice courts of the jurisdiction now conferred upon them by law, or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justice's court to said county court in any case originally brought in a justice court where the right of appeal now exists by general law. [Acts 1937, 45th Leg., S.B. #406.]

Effective April 23, 1937.

Title of Act:

Section 5 repeals all conflicting laws and parts of laws; section 6 declared an emergency making the act effective on and after its passage.

An Act to increase the Civil Jurisdiction of the County Court of Collingsworth County, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #406.]

Art. 1970—316. Jurisdiction of Sterling County increased

Section 1. Hereafter the County Court of Sterling County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county records.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk

of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Sterling County shall be such as provided by the Constitution and General Laws of the State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Sterling County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitutional and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justices Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original, or concurrent jurisdiction with the Justices Courts where the amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of this State.

Sec. 7. It shall be the duty of the District Clerk of Sterling County, Texas, within thirty (30) days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case, in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and the first Monday in November of each year, and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided that the County Commissioners Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners Court.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly repealed in so far as they relate to Sterling County, Texas. [Acts 1937, 45th Leg., H.B. #974; Acts 1937, 45th Leg., S.B. #420.]

Effective April 9, 1937.

The 45th Legislature, at its regular session in 1937, enacted two separate Acts, both cited to the text, relating to the jurisdiction of the County Court of Sterling County, reading verbatim the same. The provisions of the two Acts being identical, the text of one only is set out and both Acts are cited as credits to the text.

Section 10 of the Acts of 1937 declared an emergency making the acts effective on and after passage.

Title of Act:

An Act Relating to the jurisdiction of the County Court of Sterling County, conferring upon said Court civil and criminal jurisdiction, and increasing the criminal and civil jurisdiction of said Court; conforming the jurisdiction of the District Court of said County to such change; fixing the time of holding Court, and to repeal all laws in conflict with this Act, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #974.]

Art. 1970-317. Crosby and Fisher County Courts, civil jurisdiction increased

Section 1. That the County Courts of Crosby and Fisher Counties shall have and exercise original concurrent jurisdiction with the Justices Courts in all civil matters which by the General Laws of this State is conferred upon Justices Courts.

Sec. 2. Said County Courts shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the General Laws of this State is conferred upon County Courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Courts in civil cases of which said Courts have appellate or original concurrent jurisdiction with the Justices Courts

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interests and costs.

Sec. 4. This Act shall not be construed to deprive the Justices Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said Courts over such matters as are specified in Section 1 of this Act, nor shall this Act be construed to deny the right of appeal from the Justices Courts to the said County Courts in any case originally brought in the Justices Courts where the right of appeal now exists by law. [Acts 1937, 45th Leg., H.B. #705.]

Effective May 19, 1937.

Section 5 of this act repeals all conflicting laws and parts of laws; section 6 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act to increase the civil jurisdiction of the County Courts of Crosby and Fisher Counties; repealing all laws and parts of laws in conflict; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #705.]

Art. 1970—318. Gillespie County Court; probate jurisdiction conferred; civil and criminal jurisdiction diminished

Section 1. That hereafter the County Court of Gillespie County, Texas, shall have and exercise the general jurisdiction of a Probate Court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians and transact all business pertaining to estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition and distribution and settlement of estates of deceased persons; and to apprentice minors as required by law and all matters of eminent domain over which the County Courts have jurisdiction under the General Laws of this State; and to issue all writs necessary to the enforcement of its jurisdiction; and to punish contempt under such provisions as are, or may be, provided by General Law covering County Courts throughout the State; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Court or Courts of said County shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by the General Laws of this State, the County Court would have jurisdiction, except as provided in Section 1 of this Act and excepting all causes and matters, civil and criminal, over which by the General Laws of the State, the Justice Courts of said County would have jurisdiction; and that all causes, other than probate matters and such as are provided in Section 1, be and the same are hereby transferred to the District Court or Courts of said County; and writs and processes, civil and criminal, heretofore issued out or by said County Court other than those pertaining to matters which by Section 1 of this Act, jurisdiction is given to the County Court, be and the same are hereby made returnable to the next term of the District Court or Courts of said County.

Sec. 3. That the Clerk of the County Court of Gillespie County, Texas, be and he is hereby required immediately after this Act becomes effective, to make full and complete transcripts of all the entries on his dockets, civil and criminal, heretofore made in causes, which by Section 2 are transferred to the District Court or Courts of said County, and file the same, together with all original papers of all of said causes and proceedings with the Clerk of the District Court or Courts of said County which shall include all judgments, both civil and criminal, that remain uncollected and not satisfied; and for the purpose of carrying into effect this Act, the Court having jurisdiction of such matters shall have full and ample power to enforce the same by issuing execution or other process required by law and all of such causes under this Act transferred to the District Court, shall be immediately docketed by the Clerk of said Court, and shall stand on the dockets of said Courts as appearance cases for the next term of said Court; for each of said transcripts, the County Clerk shall receive Twenty-five (25) Cents per one hundred (100) words, and Fifty (50) Cents for certificate thereto to be taxed against the party cast in the suit, if a civil suit and if criminal, against the defendant if convicted.

Sec. 4. This Act shall not be construed in any wise or in any manner as affecting judgments rendered by the County Court pertaining to matters and causes

which by this Act are made returnable to the District Court but the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made in this Act. [Acts 1937, 45th Leg., H.B. #704.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Jurisdiction of Gillespie County Court, see, also, art. 1970-312.

Title of Act:

An Act conferring jurisdiction upon the

County Court of Gillespie County in probate matters and general jurisdiction over estates and transferring the jurisdiction of said Court over civil and criminal cases to District Court of said County; and conforming the jurisdiction of the District Court to such change; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #704.]

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER SEVEN—THE JURY

Art.	2. JURY COMMISSIONERS	Art.
2116d.	Service by sheriff, defined; service by registered mail [New].	2116e. Summoning jurors in capital cases in counties of 25,000 population or more; verbally or by registered mail [New].

2. JURY COMMISSIONERS

Art. 2104. [5122-23-24] Appointment of jury commissioners [Repealed in part].

The District Judge shall at each term of the District Court appoint not less than three, nor more than five persons to perform the duties of Jury Commissioners, and shall cause the sheriff to notify them of their appointment, and when and where they are to appear. Such Commissioners shall receive as compensation for each day or part thereof, they may serve as such Commissioners, the sum of Three (\$3.00) Dollars, and who shall possess the following qualifications:

1. Be intelligent citizens of the county and able to read and write.
2. Be qualified jurors and freeholders in the county.
3. Be residents of different portions of the county.
4. Have no suit in said court which requires the intervention of a jury.
5. The same person shall not act as Jury Commissioner more than once in the same year. [As amended by Acts 1929, 41st Leg., p. 71, ch. 37, § 1.]

This article was repealed as to counties of 16,775 and not more than 17,000 population by Acts 1929, 41st Leg., 1st C.S. p. 175, ch. 167, § 17. Effective 20 days after May 21, 1929, date of adjournment.

Act of 1929, 41st Leg., 1st C.S., p. 176, ch. 167, § 17, repealing articles 2104-2116, 2118, 2141, 2146, 2150, as to counties of 16,775 and not more than 17,000 population, was held unconstitutional in *Randolph v. State*, 117 Cr.R. 80, 36 S.W.(2d) 484.

Art. 2116d. Service by sheriff, defined; service by registered mail

That the phrase, "Served by the Sheriff to appear and report for jury service," as used in Chapter 7,¹ Title 42, Revised Statutes of 1925, of the State of Texas, shall mean verbal service upon the juror by the Sheriff, unless the Judge drawing the jury shall direct the Sheriff to make service by United States registered mail.

In the event the Judge drawing the jury directs the Sheriff to make service by United States registered mail, it shall be sufficient if the summons to report for jury service states the time and place when said juror is to report, and if same be mailed in the United States mail by registered letter to the juror at the address shown by the card placed in the jury wheel, or the address shown by the last assessment roll of the County, and if said letter be received by some person authorized by the United States mails to receive said letter. The return receipt of the United States Post Office Department showing said letter was received by said juror, or by some person authorized by the United States Post Office Department to receive same for him, shall be deemed prima facie evidence that the juror actually received such notice. [Acts 1937, 45th Leg., S.B. # 207, § 1.]

¹ Articles 2094-2151.

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining the phrase, "Served by the Sheriff to appear and report for jury service," as used in Chapter 7, Title 42, Revised Statutes 1925, so as to authorize the Judge drawing the jury to direct that

said service may also be made by sending each juror a letter by United States registered mail, notifying him of his jury service; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #207.]

Art. 2116e. Summoning jurors in capital cases in counties of 25,000 population or more; verbally or by registered mail

That in counties having therein a city of twenty-five thousand (25,000) or more population, as shown by the last preceding Federal Census, jurors summoned in capital cases shall be served verbally by the sheriff to appear, or if so ordered by the judge drawing said jury, shall be served by the sheriff by registered mail to appear.

In the event the Judge drawing the jury directs the sheriff to make service by registered United States mail, it shall be sufficient if the summons to report for jury service states the time and place where said juror is to report, and if same be mailed in the United States mail by registered letter to the juror at the address shown by the card placed in the jury wheel, and if said letter be received by some person authorized by the United States mails to receive said letter. The return receipt of the United States Post Office Department showing said letter was received by said juror, or by some person authorized by the United States Post Office Department to receive same for him, shall be deemed prima facie evidence that the juror actually received such notice. [Acts 1937, 45th Leg., S.B. #208, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that the sheriff may summons jurors in capital cases in coun-

ties having a city with a population of twenty-five thousand (25,000) or more, according to the last preceding Federal Census, either in person, verbally, or by registered United States mail, as the trial judge in his discretion may order; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #208.]

CHAPTER THIRTEEN—GENERAL PROVISIONS

3. OFFICIAL COURT REPORTER

Art.

2326d. Salaries of official shorthand reporters in districts composed of four counties [New].

2326e. Salaries of reporters in certain counties [New].

2327a. Salary in certain counties [New].

Art.

2327b. County Court reporter in counties of 40,905 to 41,000 population [New].

5. ADVISORY JUDICIAL COUNCIL [New]

2328a. Advisory judicial council, membership, duties.

2. RECEIVERS

Art. 2317. [2153] [1491] Receivership of corporation limited [certain corporations excepted]

No corporation shall be administered in any court more than three years from the date of such appointment except as hereinafter provided; and within three years such court shall wind up the affairs of such corporation, unless prevented by litigation, or unless, at said time, the Receiver shall be conducting and operating the affairs of such corporation as a going concern, in which event the court, upon application, by proper order entered upon the minutes, after hearing held after due notice to all attorneys of record, may extend, from time to time, such receivership

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

for such term and upon such conditions as in its judgment the best interests of all parties concerned may require; provided, that no continuance of a receivership shall be for more than five years additional to the original three years; and provided further, that corporations organized and existing under Section 68 of Article 1302, Chapter 1 of Title 32, and under Title 112, of Revised Civil Statutes of Texas, shall not be subject to the above provision limiting receiverships to five additional years, but as to such exempted corporations, the time in which to close any such receivership shall be determined by the court, and it may extend the same, from time to time, for such additional period or periods of time as it may determine. [As amended Acts 1933, 43rd Leg., p. 58, ch. 29; Acts 1935, 44th Leg., p. 297, ch. 111, § 1; p. 698, ch. 298, § 1; Acts 1937, 45th Leg., S.B. # 381, § 1.]

Effective April 8, 1937.

Section 2 of the amendatory act of 1937

declared an emergency making the act effective on and after its passage.

3. OFFICIAL COURT REPORTER

Art. 2323. [1928] Deputy reporter

This article is not repealed in any way by Acts 1937, 45th Leg., H.B. # 1108, § 1, see article 2327a, post.

[Art. 2326a. Expenses and manner of payment]

This article is not repealed in any way (article 2327a), nor by Acts 1937, 45th Leg., by Acts 1937, 45th Leg., H.B. # 1108, § 1 H.B. # 8, § 1 (article 2326d).

Art. 2326d. Salaries of official shorthand reporters in districts composed of four counties

The salary of the official shorthand reporter in each judicial district composed of four counties in this State, with the population of said four counties totalling in the aggregate, in excess of one hundred thousand (100,000) population according to the last preceding Federal Census, and which alone constitute one or more judicial districts, in addition to the compensation of transcript fees as provided by law, shall be Three Thousand Dollars (\$3,000.00) per annum to be paid as the salaries of other court reporters are paid.

It is further expressly provided that nothing herein shall be construed as repealing Article 2326-A of 1925 Revised Civil Statutes of Texas as amended by Acts 1929, 41st Legislature, Chapter 56, page 112. [Acts 1937, 45th Leg., S.B. # 8, § 1.]

Effective March 16, 1937.

Section 2 of this Act declared an emer-

gency and provided that the Act should take effect from and after its passage

Art. 2326e. Salaries of reporters in certain counties

Section 1. That the official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such court out of the General Fund of the county.

Sec. 2. That the official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population of more than two hundred and ninety

thousand (290,000) and less than three hundred and twenty-five thousand (325,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such Court out of the General Fund of the county.

Sec. 3. If any section, sentence, clause, phrase or part of this Act be held invalid for any reason, such invalidity shall not affect the remainder of the Act.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only. [Acts 1937, 45th Leg., H.B. # 1169.]

Effective June 8, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of official shorthand reporters in District Courts, Criminal District Courts and County Courts-at-Law in all counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census and in counties having a population of more than two hundred

and ninety thousand (290,000) and less than three hundred and twenty-five thousand (325,000) inhabitants according to the last preceding or any future Federal Census; providing methods of payment; providing that if any section, paragraph, sentence, clause, phrase or part of this Act be invalid, such invalidity shall not affect the remainder thereof; repealing all laws and parts of laws in conflict to the extent of such conflict only; and declaring an emergency. [Acts 1937, 45th Leg., H. B. #1169.]

[Art. 2327a. Salary in certain counties]

In each Judicial District of this State composed of one county only, and in which county there is only one District Court, and also in each Judicial District composed of two (2) or more counties, and also in each Judicial District composed of one county, which county composes also a portion of another Judicial District, the salary of the official Court Reporter shall be Twenty-seven Hundred Dollars (\$2700) per annum, in addition to the compensation for transcript fees and allowances for expenses now provided by law; said salary to be paid monthly by the Commissioners Court of the county or counties, out of the General Fund of the county or counties, upon the certificate of the District Judge; provided that in any Judicial District composed of two (2) or more counties said salary shall be paid by such counties of the District in proportion to the number of weeks provided by law for holding Court in the respective counties in the District; and provided that in a District wherein in any county the term may continue until the business is disposed of, each county shall pay in proportion to the time Court is actually held in such county; provided, however, that in Hays County, Texas, the Court Reporter shall be paid out of the Jury Fund of said county upon the certificate of the Judge of the District Court of said county.

Provided further that nothing in this Act shall be construed as in any way repealing Article 2323 of the Revised Civil Statutes of 1925, nor Chapter 56 of the General Laws of the Regular Session of the Forty-first Legislature, 1929,¹ nor shall this Act in any way repeal or amend any local or special law passed at the Regular or First and Second Called Sessions of the Forty-first Legislature of 1929. [Acts 1929, 41st Leg., 2nd C.S., p. 97, ch. 59, § 1, as amended Acts 1937, 45th Leg., H.B. # 1108, § 1.]

¹ Article 2326a.

Art. 2327b. County court reporter in counties of 40,905 to 41,000 population

Section 1. In counties having a population of not less than forty thousand nine hundred and five (40,905) and not more than forty-one

thousand (41,000) according to the last preceding Federal Census, there shall be and there is hereby created and established the office of court reporter of the County Court; such office to be called and known as the official Court Reporter of the County Court.

Sec. 2. In said counties the Judge of the County Court shall have the power to appoint an official court reporter for the County Court who shall possess the same qualifications, perform the same duties, as is now required of court reporters of the District Court and who shall hold the office of Court Reporter of the County Court for a term of two years from the date of such appointment or until his successor shall be appointed and qualified.

Sec. 3. Said official Court Reporter of said County Court shall be paid a salary of not to exceed Fifteen Hundred (\$1500.00) Dollars per year payable in twelve equal monthly payments on the first of each month during the year, out of the General Fund of the County.

Sec. 4. The Clerk of the County Court shall tax as costs the sum of Three (\$3.00) Dollars in each and every civil case filed in said court, on and after the passage and approval of this Act, in which an answer is filed. [Acts 1937, 45th Leg., 2nd C.S., S.B. #12.]

Effective Oct. 23, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in counties having a population of not less than forty thousand nine hundred and five (40,905) and not more than Forty-one thousand (41,000) according to the last preceding Federal Census, the County Judge may ap-

point a court stenographer to be called and known as the official County Court Reporter of the County Court; to define and prescribe the duties of such court reporter, and fix the compensation and tenure of office; prescribing the fund from which the salary is to be paid and prescribing the taxing of costs in civil suits in which answer is filed, and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 12.]

TITLE 44—COURTS—COMMISSIONERS

1. COMMISSIONERS COURTS

Art.

2350(4). Salaries of commissioners in counties of 10,370 to 10,475 and other counties [New].

2. POWERS AND DUTIES

2351a. Fire fighting equipment; purchase authorized in counties of 300,000 to 350,000 population [New].

Art.

2368d. Validation of funding and refunding securities issued by Commissioners' Court or Cities and Towns [New].

2372e—1. Renting office space for administration of unemployment relief in counties of 48,900 to 49,000 population [New].

2372f. Pick up trucks, purchasing and maintaining in certain counties [New].

1. COMMISSIONERS COURTS

[Art. 2350(3). Repeals; salary of precinct commissioner in counties of 14,588 to 14,800]

That all laws, both general and special, or parts of laws, both general and special, in conflict with the foregoing Act, be, and the same is hereby expressly repealed; provided, however, that in all counties having a population of not less than fourteen thousand, five hundred and eighty-eight (14,588) and not more than fourteen thousand, eight hundred (14,800) according to the last available Federal Census and each available census thereafter, and a valuation of over Sixty Million Dollars (\$60,000,000) according to the last approved tax roll for county purposes, each Precinct Commissioner shall be entitled to receive a salary not in excess of Three Thousand Dollars (\$3,000) per annum payable in equal monthly installments, and provided that in all counties having a population of not less than ninety-eight thousand (98,000) and not more than one hundred and twenty-five thousand (125,000) according to the last available Federal Census and each available census thereafter, and a valuation of over Sixty Million Dollars (\$60,000,000) according to the last approved tax roll for county purposes, each precinct commissioner shall be entitled to receive a salary not in excess of Three Thousand Dollars (\$3,000) per annum payable in equal monthly installments. [Acts 1935, 44th Leg., p. 1036, ch. 362, § 4, as amended Acts 1937, 45th Leg., H.B. # 876, § 1.]

Amendment of 1937, effective April 23, 1937.

Section 2 of the amendatory acts of 1937 declared an emergency making the act effective on and after its passage.

Art. 2350(4). Salaries of commissioners in counties of 10,370 to 10,475 and other counties

In all counties in this State having a population of not less than ten thousand, three hundred seventy (10,370) and not more than ten thousand, four hundred seventy-five (10,475) according to the last preceding Federal Census, County Commissioners shall receive an annual salary of One Thousand, Two Hundred Dollars (\$1,200.00), payable in twelve (12) equal monthly installments out of such funds belonging to such counties as is now provided by law; in all counties having a population of not less than nine thousand, seven hundred fifteen (9,715) and not more than ten thousand and sixty (10,060) according to the last preceding Federal Census, County Commissioners shall receive an annual salary of Nine Hundred Dollars (\$900.00), payable in twelve (12) equal monthly installments out of such funds belonging to such counties as is now provided by law, and the salaries herein fixed are in lieu of the compensation for such Commissioners as is now provided by law;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

in all counties having a population of not less than twenty-four thousand and sixty-five (24,065) and not more than twenty-four thousand, one hundred eighty-five (24,185) according to the last preceding Federal Census, County Commissioners shall receive an annual salary of One Thousand, Eight Hundred Dollars (\$1,800.00), payable in twelve (12) equal monthly installments out of such funds belonging to such counties as is now provided by law. Providing that the salaries and compensation of each of the County Commissioners in counties having a taxable valuation of not less than Forty-three Million Dollars (\$43,000,000.00), according to the last available approved tax rolls for such counties, and having a population of not more than seven thousand, eight hundred forty-five (7,845) according to the last Federal Census, shall be not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum, payable in equal monthly installments. Providing that the salaries and compensation of the County Commissioners in counties with a taxable valuation of not less than Thirty Million Dollars (\$30,000,000.00), and not more than Forty Million Dollars (\$40,000,000.00), according to the tax rolls as prepared by the Assessor and Collector of Taxes of the respective counties for the preceding year; and having within their boundaries two incorporated cities of more than thirteen thousand, five hundred (13,500) population each, according to the last preceding Federal Census, shall be not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) annually, payable in equal monthly installments; and in addition to their regular salaries each of such Commissioners shall receive their actual and necessary expenses incurred in the conduct of their offices in an amount not to exceed Fifty Dollars (\$50.00), per month, payable out of the Road and Bridge Fund of such counties. Providing that in all counties in this State having a population of not less than forty-one thousand (41,000) and not more than forty-two thousand (42,000) according to the last preceding Federal Census, the County Commissioners shall in addition to their regular salaries as now provided by law receive their actual and necessary expenses incurred in the conduct of their office in an amount not to exceed Fifty Dollars (\$50.00) per month, payable out of the Road and Bridge Fund of such counties on sworn claims and approved by the County Auditor of such counties. This Act shall not apply to Counties having a population of seven thousand, six hundred eighty (7,680) or less, according to the last Federal Census. [As added Acts 1937, 45th Leg., H.B. #765, § 1, as amended Acts 1937, 45th Leg., 2nd C.S., S.B. #28, § 1.]

Effective May 5 and Nov. 3, 1937.

Section 2 of the amendatory act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

Art. 2350d. Salary in certain counties

In every County in this State, having a population of not less than seventeen thousand (17,000) and not more than seventeen thousand, one hundred (17,100), according to the last available United States Census, the compensation of each County Commissioner, so long as the taxable values in said County shall exceed the sum of Six Million, eight hundred thousand (\$6,800,000.00) Dollars for the next preceding year, shall be Eighteen Hundred (\$1800.00) Dollars per year, to be paid in equal monthly installments, shall be fifty per cent (50%) of which amount shall be paid out of the General Fund of the County, and Fifty per cent (50%) out of the Road and Bridge Fund of the County; Provided that when such taxable values for the next preceding year shall fall below said sum, the salary of each County Commissioner shall be as provided

in Article 2350 of the Revised Statutes of 1925. [As amended Acts 1937, 45th Leg., H.B. # 724, § 1.]

Effective April 1, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 2350m. Salaries and expenses in other counties

Acts 1937, 45th Leg., H.B. No. 1071, effective May 5, 1937, purported to enact an "Article to be designated as Article 2350m." It being a special and local Act, it is set out here and reads as follows: "In all counties in this State having a population of not less than twenty-seven thousand, two hundred and thirty-nine (27,239) and not more than twenty-seven thousand, four hundred (27,400), and in all counties in this State having a population of not less than twenty-two thousand, six hundred and forty-two (22,642) and not more than twenty-two thousand, six hundred and fifty (22,650), and counties having a population of not less than twenty-five thousand, three hundred and ninety-four (25,394) and not more than twenty-five thousand, four hundred and four (25,404), according to the last preceding Federal Census, the Commissioners Court of such county is hereby authorized to allow each Commissioner the sum of Twenty-five Dollars (\$25) per month for traveling expenses while on official business."

Effective May 5, 1937.

Acts 1937, 45th Leg., H.B. # 584, relating to expenses in counties of less than 35,000 reads as follows:

"Section 1. Any county in this State having a population of less than thirty-five thousand (35,000) inhabitants, according to the last preceding Federal Census, and having an assessed property valuation exceeding Seventy Million Dollars (\$70,000,000) according to the approved tax rolls for the preceding year is hereby authorized to allow each County Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses within the county while on official business, which said sum shall be paid out of the Road and Bridge Fund of said county, and each Commissioner shall make under oath an itemized statement of his expenses for each month."

Effective April 27, 1937.

Acts 1937, 45th Leg., H.B. # 848, relating to counties of 17,600 to 17,700 reads as follows:

"Section 1. In any county in this State having a population of not less than seventeen thousand, six hundred (17,600) and not more than seventeen thousand, seven hundred (17,700) and in any county in this State having a population of not less than seventy-seven thousand (77,000) and not more than seventy-seven thousand, one hundred (77,100) and in any county in this State having a population of not less than seventy-seven thousand, five hundred (77,500) and not more than seventy-seven

thousand, six hundred (77,600), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses and depreciation on his automobile while on official business. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county."

Effective April 23, 1937.

Acts 1937, 45th Leg., H.B. #932 reads as follows:

"Section 1. That the salaries and compensation of each of the County Commissioners in counties with a taxable valuation of not less than Forty-seven Million, One Hundred Thousand Dollars (\$47,100,000) nor more than Forty-eight Million, One Hundred Thousand Dollars (\$48,100,000) according to the tax rolls as prepared by the Tax Assessor of the respective counties for the current year of 1936, shall be not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in equal monthly installments.

"Sec. 2. The salaries hereinabove stipulated shall be paid in whole or in part from either the Road and Bridge Fund of the county or the General Fund of the county.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby specifically repealed."

Effective June 9, 1937.

Acts 1937, 45th Leg., H.B. No. 1002, relating to counties of 77,600 to 88,000 population, reads as follows:

"Section 1. That the salaries and compensation of each of the County Commissioners in Counties with the population of not less than seventy-seven thousand, six hundred (77,600) inhabitants nor more than eighty-eight thousand (88,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, and having an assessed valuation of not less than Forty Million and One Dollars (\$40,000,001) nor more than Fifty Million Dollars (\$50,000,000), according to the last approved tax rolls, as same now exists or may hereafter exist, shall be Three Thousand Dollars (\$3,000) per annum, payable in equal monthly installments of Two Hundred and Fifty Dollars (\$250).

"Sec. 2. The salaries hereinabove stipulated shall be paid in whole or in part from either the Road and Bridge Fund of the County or the General Fund of the County.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

"Sec. 3. All laws or parts of laws in conflict herewith are hereby specifically repealed."

Became law without Governor's signature, 90 days after May 22, 1937, date of adjournment.

Acts 1937, 45th Leg., H.B. #1120, reads as follows:

"Section 1. In all counties in this State having an assessed valuation of not less than Sixteen Million Dollars (\$16,000,000) and not more than Seventeen Million Dollars (\$17,000,000), based upon the last approved tax roll, and whose population is not less than nineteen thousand (19,000) nor more than nineteen thousand, nine hundred (19,900) according to the last available United States Census, each County Commissioner shall be entitled to receive a salary not in excess of Twenty-one Hundred and Sixty Dollars (\$2160) per annum payable in equal monthly installments.

"Sec. 2. Provided, however, that in all counties with a population not less than twenty-four thousand, one hundred (24,100), and not more than twenty-four thousand, one hundred and seventy-five (24,175), according to the last preceding Federal Census, each of the Commissioners in said counties shall receive in addition to the salaries fixed by law in such counties their actual and necessary expenses incurred in the conduct of their office in an amount not to exceed Fifty Dollars (\$50) per month, payable out of the Road and Bridge Fund of such counties on verified claims, and approved by the County Auditor of such counties.

"Sec. 3. All laws and parts of laws, General and Special, in conflict with this Act are hereby repealed."

Effective 90 days after May 22, 1937, date of adjournment.

Acts 1937, 45th Leg., H.B. #250 relating to counties of 13,600 to 13,700 reads as follows:

"Section 1. That the salaries and compensation of each of the County Commissioners in counties with a population of not less than thirteen thousand, six hundred (13,600) inhabitants, nor more than thirteen thousand, seven hundred (13,700) inhabitants, according to the last Federal Census as to the population or hereafter may be, shall be Twelve Hundred Dol-

lars (\$1200) per annum, payable in equal monthly installments of One Hundred Dollars (\$100).

"Sec. 2. The salaries hereinabove stipulated shall be paid in whole or in part from either the Road and Bridge Fund of the county or the General Fund of the county.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby specifically repealed."

Effective April 8, 1937.

Acts 1937, 45th Leg., S.B. #433, reads as follows:

"Section 1. That the salaries and compensation of each of the County Commissioners in Counties with the population of not less than two thousand forty-eight (2048) inhabitants, nor more than two thousand, two hundred eighteen (2218) inhabitants, according to the last Federal Census as to the population or hereafter may be, shall be Twelve Hundred Dollars (\$1200.00) per annum, payable in equal monthly installments of One Hundred Dollars (\$100.00).

"Sec. 2. The salaries herein above stipulated shall be paid in whole or in part from either the Road and Bridge Fund of the County or the General Fund of the County."

Section 3 repeals all conflicting laws and parts of laws.

Effective April 8, 1937.

Acts 1937, 45th Leg., 1st C.S., H.B. #52, reads as follows:

"Section 1. In any county in this State containing a population of not less than forty-two thousand, one hundred and twenty-five (42,125), nor more than forty-two thousand, one hundred and fifty (42,150), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Twenty-five Dollars (\$25) per month for traveling expenses and depreciation on the automobile while used on official business in overseeing the construction and maintenance of the public roads of said counties. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair, free of any other charge to the county."

Effective July 6, 1937.

2. POWERS AND DUTIES

Art. 2351a. Fire fighting equipment; purchase authorized in counties of 300,000 to 350,000 population

Section 1. The Commissioners Court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants in accordance with the last preceding Federal Census shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection

and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town.

Contracts with centrally located municipality for operation and maintenance

Sec. 2. The Commissioners Courts in such counties are empowered and authorized to enter into contracts with any centrally located municipality in the county for the operation and maintenance of said fire trucks and other fire-fighting equipment on such terms as the Commissioners Court may deem proper and expedient.

Provisions cumulative; partial invalidity

Sec. 3. The provisions of this Act are cumulative of all other laws other than special laws and if any section, subdivision, paragraph, sentence, or clause of this Act be held unconstitutional, the remaining portions thereof shall be valid. [Acts 1937, 45th Leg., H.B. # 427.]

Effective June 8, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing and empowering the Commissioners Court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants, according to the last preceding Federal Census, to purchase fire trucks and other fire-fighting equipment for the protection and preservation of bridges, warehouses, shops, and other property located

without the limits of any incorporated city or town; authorizing and empowering the Commissioners Court to enter into contracts with any centrally located city in the county for the operation and maintenance of any such fire trucks and equipment; providing that the provisions of this Act are cumulative of all of the laws other than special laws; providing that in the event any section, subdivision, paragraph, sentence, or clause be held unconstitutional, that the remaining portions thereof shall be valid, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #427.]

[Art. 2368a. Requirements governing advertising for bids by counties and cities]

Sec. 8. It is hereby made the duty of all Commissioners' Courts and of all governing bodies, as the case may be, to levy, and have assessed and collected, taxes sufficient to pay the interest as it accrues and the principal as it matures on all bonds and time warrants issued in accordance with the provisions of this Act. The same duties in reference to the levying, assessment and collection of taxes, as are imposed by the provisions of Chapters 1 and 2, of Title 22, Revised Civil Statutes of 1925, to assure the payment of taxes on bonds therein authorized, are imposed on said Commissioners' Courts and said governing bodies in reference to all bonds and time warrants issued in accordance with this Act; provided that if a tax, meeting the requirements of Article 11, Sections 5 and 7 of the Constitution shall have been levied to pay principal and interest thereon, any bond or warrant may thereafter be funded or refunded through the issuance of funding or refunding bonds or warrants irrespective of the fact that due to decline of property values or for other reasons, the City or County seeking to issue such funding or refunding bonds or warrants does not then have available taxing power sufficient to pay the principal and interest of such funding or refunding bonds or warrants. [As amended Acts 1937, 45th Leg., S.B. # 422, § 1.]

Amendment of 1937, effective April 5, 1937.

Section 2 of the amendatory act of 1937

is article 2368d post and section 3 declares an emergency making the act effective on and after its passage.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 2368d. Validation of funding and refunding securities issued by Commissioners' Court or Cities and Towns

All actions heretofore taken by Commissioners' Courts and by the governing bodies of Cities and Towns in the authorization, execution, issuance and delivery of such funding and refunding bonds and such funding and refunding warrants, in attempted compliance with the provisions of Chapter 163, Acts of the Regular Session of the Forty-second Legislature¹ are hereby validated and all such funding and refunding securities issued pursuant to such actions are hereby validated; provided, however, that such validation shall not affect or in any wise apply to the subject matter of any litigation pending at the time this Act becomes effective, until such litigation is determined, finally, favorably to its validity, or until such litigation has been dismissed. [Acts 1937, 45th Leg., S.B. # 422, § 2.]

¹ Article 2368a.

Effective April 5, 1937.

See note to article 2368a, § 8.

Art. 2371. Rest-room for women

That the Commissioners Court in each county in this State may maintain a rest room for women in the courthouse, or if for any reason a suitable rest room cannot be had in the courthouse, they may maintain a rest room at some convenient place near the courthouse. The rest room may be comfortably furnished with lounge, chairs, mirror, lavatory, tables, and such other furnishings as may be needed to make the room attractive and comfortable for women who may be in attendance on the Court or who may for other reasons be in town.

The Commissioners Court may assist the business and professional men, the various women's clubs, and other organizations in paying the salary of a matron for the rest room; providing the County Judge shall appoint such matron with the consent of the Commissioners Court; providing that in counties having a population according to the last United States Census of less than twenty-five thousand (25,000), the expense and furnishing of the rest room shall not exceed One Hundred and Twenty-five Dollars (\$125), nor shall the Commissioners Court expend more than Fifteen Dollars (\$15) per month for the maintenance of the rest room, including the compensation paid by the county to the matron; counties having a population according to the last United States Census of more than twenty-five thousand (25,000) and less than fifty thousand (50,000) may expend not to exceed Two Hundred Dollars (\$200) in furnishing a rest room and may expend for its maintenance not to exceed Twenty-five Dollars (\$25) per month, including the compensation paid by the county to the matron; and those counties having more than fifty thousand (50,000) and less than two hundred and fifty thousand (250,000) population may expend in furnishing a rest room not to exceed Three Hundred Dollars (\$300), and may expend for its maintenance, including the compensation paid by the county to the matron, any amount not to exceed Fifty Dollars (\$50) per month; and those counties having a population of more than two hundred and fifty thousand (250,000) according to the last United States Census may expend in furnishing a rest room for women in the courthouse or in courthouse buildings or on courthouse property a sum not to exceed Three Hundred Dollars (\$300) in furnishing such rest room, and may expend for its maintenance, including the compensation paid by the county to the matron, any amount not to exceed One Hundred Dollars (\$100) per month. [As amended Acts 1937, 45th Leg., H.B. # 675, § 1; Acts 1937, 45th Leg. 1st C.S., H.B. # 47, § 1.]

Amendments of 1937, effective May 5 and July 6, 1937.

Section 2 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

Art. 2372. Interpreters

The Commissioners Courts of the various counties of this State are hereby authorized to pay for the services of interpreters employed by the various courts within their respective counties a sum not to exceed \$5.00 per day, which is to be paid out of the General Funds of the County upon warrants issued by the respective courts or clerks thereof in favor of the persons rendering such services; provided, however, that such interpreter shall be paid only for the time he is actually employed. [As amended Acts 1937, 45th Leg., H.B. # 569, § 1.]

Amendment of 1937, effective April 6, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency making the act effective on and after its passage.

Art. 2372d. County horticultural and agricultural exhibits

Section 1. All counties in the State acting by and through their respective Commissioners' Courts may provide for annual exhibits of horticultural and agricultural products, livestock and mineral products, and such other products as are of interest to the community. In connection therewith, such counties may also establish and maintain museums, including the erection of the necessary buildings and other improvements, in their own counties or in any other county or city in the United States, where fairs or expositions are being held.

Sec. 2. The Commissioners' Courts of the respective counties or the Commissioners' Courts of several counties may cooperate with each other and participate with local interests in providing for the erection of such buildings and other improvements as may be necessary to accomplish the purpose mentioned in Section 1, of this Act and for the assembling, erecting, and maintaining of such horticultural and agricultural, livestock and mineral exhibits, and the expenses incident thereto.

Sec. 3. All incorporated cities, water improvement districts, and water control and improvement districts may cooperate with the Commissioners' Courts of such counties for the purposes stated in Section 1, and Section 2 of this Act and appropriate monies in providing for such exhibits, establishing and maintaining such museums, and in the erection of such buildings and improvements, and the assembling, erecting and maintaining of such horticultural, agricultural, livestock and mineral exhibits.

Sec. 4. Nothing herein contained shall be construed as repealing or modifying any of the provisions of Chapter 163, General Laws, Regular Session, Forty-second Legislature (known as House Bill 312),¹ nor as taking the provisions of this Act out of limitations of said Chapter 163. [Acts 1934, 43rd Leg., 4th C.S., p. 52, ch. 20, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2103, ch. 507, § 1.]

¹ Article 2368a.

Effective Oct. 31, 1936.

Section 2 of the amendatory act of 1936 made the provisions of the act separable and related to partial invalidity.

Section 3 of the amendatory act of 1936

repeals all conflicting laws and parts of laws.

Section 4 of the amendatory Act of 1936 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2372e—1. Renting office space for administration of unemployment relief in counties of 48,900 to 49,000 population

Section 1. The County Commissioners' Courts and the City Commission of any incorporated town within said County of this State are hereby authorized to lease or rent office space for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief of the unemployed and needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas and water; and when in the

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

opinion of a majority of the Commissioners' Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Courts are hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the County's General Fund by warrant as in the payment of other obligations of the County. The provisions of this Act shall apply to counties having a population of not less than forty-eight thousand nine hundred and not more than forty-nine thousand according to the last preceding Federal Census.

Sec. 2. All actions, proceedings, orders and contracts for such rental, lease or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any Commissioners' Courts of this State, pursuant to which such service has been rendered, are hereby validated, confirmed and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 3. If any part, section, paragraph, sentence, clause, phrase, or word contained in this Act shall ever be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, and the legislature hereby declares that it would have passed such remaining portions despite such invalidity. [Acts 1937, 45th Leg., 2nd C.S., S.B. #9.]

Effective Oct. 26, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing County Commissioners' Courts and the City Commission of any incorporated town within said County to lease or rent office space for the purpose of aiding and cooperating with the agencies of the State and Federal governments engaged in the administration of relief of the unemployed and needy people in the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas and water; to pay for such leases, rentals and utilities out of the County General Fund when in the opinion of a majority of the Commissioners' Court

such is essential to a proper administration of such agencies of either the State or Federal governments; the provisions of this Act shall apply to counties having a population of not less than forty-eight thousand nine hundred and not more than forty-nine thousand according to the last preceding Federal Census; providing for the validation of all actions, proceedings, orders and contracts for such rental, lease or utility bills heretofore made by any County Commissioners' Courts; providing that if any part in this Act shall ever be held unconstitutional, such holding shall not affect the validity of the remaining portions of the Act; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C. S., S.B. # 9.]

Art. 2372f. Pickup trucks, purchasing and maintaining in certain counties

In any county in this State having a population of not less than sixty thousand, five hundred (60,500) nor more than sixty thousand, five hundred and twenty-five (60,525), and in any county having a population of not less than forty-three thousand, thirty-six (43,036), and not more than forty-three thousand, seventy-five (43,075), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner to purchase a pickup truck to be used in each respective Precinct on official business and it shall be paid for out of the Road and Bridge Fund of the respective Commissioner's Precinct, and each Commissioner shall make under oath an account of his expenditures for such purpose. [Acts 1937, 45th Leg., H. B. # 1158, § 1.]

Effective June 2, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 46—CREDIT ORGANIZATIONS

3. MUTUAL LOAN CORPORATIONS 2507a. Amendatory act applicable existing corporations [New].

1. RURAL CREDIT UNIONS

Art. 2484. Report to Commissioner

Within twenty (20) days after the last business day of December of each year, every such Association shall make to the Banking Commissioner a report in such form as he may prescribe, signed by the President, Treasurer and a majority of the Supervisory Committee who shall certify and make oath that said report is correct according to their best knowledge and belief. Said credit union shall pay to the Banking Commissioner at the time of the filing of this report the sum of Five (\$5.00) Dollars as a filing fee.

Any such Association that shall neglect to make the said report within the time herein prescribed shall forfeit to the State Five (\$5.00) Dollars for each day during which said neglect shall continue. All such Associations shall be exempt from all franchise or other license tax. [As amended Acts 1937, 45th Leg., S.B. # 46, § 1.]

Amendment of 1937, effective April 8, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

3. MUTUAL LOAN CORPORATIONS

Art. 2503. Ratio of capital to loans

Such corporations shall automatically increase their capital stock at the rate of five (5) per cent of the amount of loans made by them to their member stockholders, and their articles of incorporation and bylaws shall so provide. Such corporations shall not make loans in excess of twenty (20) times their unimpaired capital stock represented by the part of their capital stock so automatically increased. [As amended Acts 1937, 45th Leg., H.B. # 216, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 3 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Amendment of this article by Acts 1937, 45th Leg., H.B. #216, § 1 was made applicable to existing corporations by section 2 of such act, which is set forth as article 2507a.

Art. 2504. Articles of incorporation

The articles of incorporation shall further provide: that each applicant for a loan or discount by such corporation shall become a subscriber of its common stock in an amount equal to at least five (5) per cent of the loan or discount applied for, to be fully paid for upon, or before, the closing of such loan or granting of such discount, provided the board of directors may waive such requirement if the borrower is already the owner of sufficient stock; and that the corporation may put in, out of available funds, any outstanding stock at the book value thereof, as conclusively determined by the directors of such corporation. [As amended Acts 1937, 45th Leg., H.B. # 216, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Amendment of this article by Acts 1937, 45th Leg., H.B. #216, § 1 was made ap-

plicable to existing corporations by section 2 of such act, which is set forth as article 2507a.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 2507. Rate of interest

No corporation organized under the provisions of this Chapter shall, in making loans to its members, or discounting notes of the members of such corporation, charge the member borrower in excess of three (3) per cent per annum of the rate of discount established and promulgated by the Farm Credit Administration for discounts made by the Federal Intermediate Credit Banks. [As amended Acts 1937, 45th Leg., H.B. # 216, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Amendment of this article by Acts 1937, 45th Leg., H.B. #216, § 1, was made ap-

plicable to existing corporations by section 2 of such act, which is set forth as article 2507a.

Art. 2507a. Amendatory act applicable existing corporations

The provisions of this amendatory Act shall be applicable to all existing corporations as well as those hereafter organized and existing under the provisions of Articles 2500 to 2507, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and such existing corporations may avail themselves of the provisions of this Act regardless of any existing liabilities of such corporations, and be it so enacted. [Acts 1937, 45th Leg., H.B. # 216, § 2.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 47—DEPOSITORIES

CHAPTER ONE—STATE DEPOSITORIES

Article 2525. [2417] Depository Board

The State Treasurer, as Secretary, together with the Attorney General and Banking Commissioner, shall constitute the State Depository Board. Said Board shall have the right and the power to make and enforce such rules and regulations governing the establishment and conduct of State Depositories and the handling of funds therein as the public interest may require, not inconsistent with the provisions of the laws governing such Depositories, which rules and regulations shall be in writing and entered upon the minutes of the Board. Said Board shall have the power to determine and designate the amount of State funds deposited by them in State Depositories that shall be "demand deposits" and what amount shall be "time deposits", and may contract with said Depositories in regard to the payment of interest on "time or demand deposits" not to exceed such rate as may be lawful under any Act of Congress and such rules and regulations as may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. The term "demand deposits", as used herein, shall mean any deposit which is payable on demand, and the term "time deposits", as used herein, shall mean any deposit with reference to which there is in force a contract that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration of the period of notice which must be given in writing in advance of withdrawals. Whenever the word "Treasurer" is used in the Statutes it shall mean the State Treasurer, and the word "Board" shall mean the State Depository Board. [As amended Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., S.B. # 240, § 1.]

Section 2 of the amendatory act of 1937 makes the act operative on and after August 1, 1937, and provides that all banks that are now designated as State Depositories shall be required to file new applications and to be redesignated under this act, and the Board is author-

ized to receive additional applications and to designate new banks under this act for the unexpired depository year, section 3 repeals all conflicting laws and parts of laws and especially article 2539, and section 4 declares an emergency making the act effective on and after its passage.

Art. 2526. [2418] Notice to Banks

The Treasurer on the second Tuesday in September annually, shall mail to each State and National Bank doing business in this State, a circular letter. Said letter shall state the conditions to be complied with by the applicants for designation as a State Depository. The Treasurer shall keep on file in his office for the inspection of any person desiring to see the same a list of the banks to which letters have been sent. Designation of Depositories shall be for a period of one year's time. If it develops that more depositories are required at any time, the Board may send out notices to all State and National Banks notifying them that further applications for funds for the unexpired term will be accepted, or additional funds allotted to existing depositories upon application therefor. Said additional depositories shall comply with the same rules and conditions regarding all other depositories. [As amended Acts 1937, 45th Leg., S. B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 2527. [2419] Application for deposits

The application of the bank applying for State funds shall state its amount of paid up capital stock and permanent surplus, and the maximum of State funds it will accept, accompanying same with a statement of the Bank's condition at the date of said application. Such application shall contain a provision that the books and accounts of such bank, if designated as a State Depository, shall be open at all times to the inspection of the Board, any member or any accredited representative thereof. All such applications shall be mailed to the Treasurer at Austin in time to reach his office on or before noon of the fifteenth day of October next succeeding. Applications received after said date may be considered at the option of the Board. [As amended Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2528. [2420] Acceptance

When the Treasurer receives such application, he shall endorse thereupon the date of its receipt, and shall in November prepare three (3) lists giving the names of all applicants for funds and the amount applied for. One list shall be furnished each member of the Board. The Board shall meet on the first Monday in November thereafter, and consider said applications, giving approval to those applicants that are acceptable, and having the power to reject those whose management or condition, in the opinion of the Board, does not warrant the placing of State funds in their possession. No application for State funds shall be granted to any bank whose liabilities for borrowed money are in excess of its capital stock, but the Board may in its discretion, waive this provision. [As amended Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2529. [2423] Qualifications of depositories

As soon as practicable after the Board shall have passed upon said applications, the Treasurer shall notify all banks whose applications have been accepted of their designation as State Depositories of State funds. The Treasurer shall require each bank so designated to qualify as a State Depository on or before the 25th day of November next; by (a) depositing a depository bond signed by some surety company authorized to do business in Texas, in an amount equal to not less than double the amount of State funds allotted, such bond to be payable to the Treasurer and to be in such form as may be prescribed by the Board and subject to the approval of such Board; or (b) by pledging with the Treasurer any securities of the following kinds: Bonds and certificates and other evidences of indebtedness of the United States, and all other bonds which are guaranteed as to both principal and interest by the United States; bonds of this State; bonds and other obligations issued by the University of Texas; warrants drawn on the State Treasury against the general revenue of the State; Home Owners Loan Corporation Bonds, provided both principal and interest of said bonds are guaranteed by the United States Government and such securities shall be accepted by the Board in an amount not less than five (5%) per cent greater than the amount of State funds which they secure; provided, that Texas Relief Bonds may be accepted at face value and without margin for the amount of State funds allotted, provided, such State Relief Bonds have all unmatured coupons

attached; bonds of counties located in Texas; road districts of counties in Texas; independent and common school districts located in Texas; and bonds issued by municipal corporations in Texas; all of such securities may be accepted by the Board, provided, the aggregate amount thereof is not less than twenty (20%) per cent greater than the total amount of State funds that they secure, provided, that the amount of all bonds and other obligations offered as collateral shall be determined by the Board on the basis of either their par or market value whichever is less. The term "market value" as used herein shall mean the fair and reasonable prevailing price at which said bonds are being sold on the open market at the time of the appraisalment of the securities by the Board, and the action of the Board in fixing the valuation of said bonds shall be final, and not subject to review.

No state, county, road district bond, independent or common school district or municipal bonds, or obligations of the Board of Regents of the University issued by the University of Texas, shall be accepted as collateral security unless they shall be approved by the Attorney General. All bonds accepted as collateral security shall be registered under the same rules and regulations as are required for bonds in which the Permanent School Funds are invested. Subject to the approval of the Board, a State Depository may secure its deposits of State funds in part by an acceptable surety bond, and in part by acceptable collateral of the kind herein mentioned, and any losses sustained where a Depository has secured its deposits in part by collateral and part by a surety bond, the loss may be enforced against either the collateral security or the surety bond. No warrant drawn on the State Treasury shall be accepted as collateral, unless said warrants are accompanied by affidavits, sworn to by some officer warrants, and that none of such warrants were obtained from the original of the bank offering said warrants, which said affidavits shall affirm that none of the warrants offered as collateral security were transferred or assigned by the original payees of said warrants or any of them for a less consideration than ninety-eight (98%) per cent of the face value of said payee by loaning money thereon at a rate of interest greater than eight (8%) per cent per annum. The Board shall have the power to reject any and all collateral or surety bonds tendered by a State Depository, without assigning any reason therefor, and its action in so doing shall be final and not subject to review. Notwithstanding the foregoing provisions requiring security for State funds deposited in State Depositories in the form of surety bond or collateral, security for such deposits shall not be required to the extent that said deposits are insured by the Federal Deposit Insurance Corporation under the provisions of Section 12b of the Federal Reserve Act as amended,¹ or as the same may hereafter be amended.

In the event the market value of the securities pledged by any Depository shall decrease to the point where the collateral value of said securities, as fixed by the Board, is less than the amount of said funds on deposit in said Depository, the Board shall require additional security in order to equalize such depreciation.

When the collateral pledged by a State Depository to secure a deposit of State funds shall be in excess of the amount required under the provisions of this Act, the Treasurer may, subject to the approval of the Board, permit the release of any such excess. In the event the balance to the credit of the Treasurer on the books of such bank shall be thereafter increased, adequate security as provided for in this Act, shall be deposited and maintained by such depository bank. [As amended Acts 1934, 43rd Leg., 1st C.S., p. 215, ch. 80, § 1; Acts 1934, 43rd Leg., 2nd C.S., p. 133, ch. 63, § 1; Acts 1937, 45th Leg., S.B. # 240, § 1.]

¹ 12 U.S.C.A. § 264.

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 2530. [2426] Deposit of securities

In the event the State Depository, as designated in the preceding Article, shall elect to deposit said pledged securities, above mentioned, with the State Treasurer, the said securities shall be delivered to the Treasurer and receipted for by him, and retained by him in the vaults of the State Treasury. Provided, however, that such bank so designated as depository shall have the option, instead of depositing said pledged securities with the State Treasurer, of depositing same with another State or National Bank situated in the State, subject to the approval of the Board; said securities to be held in trust by said custodian bank to secure funds deposited by the State Treasurer in the depository bank. Upon the receipt of said securities, said custodian bank shall immediately issue and deliver to the State Treasurer controlled trust receipts for said securities pledged to the State Treasurer. The security evidenced by such trust receipts shall be subject to inspection by the Board or its agents at any time deemed advisable by said Board. Said custodian bank shall have a capital stock and permanent surplus of not less than Five Hundred Thousand (\$500,000.00) Dollars, and said bank designated as depository shall itself defray the charges, if any, of such custodian bank for accepting and holding said securities.

Subject to the approval of the Board, a State Depository may have the right to substitute one group of securities for another group of securities pledged with the State Treasurer, when and as such State Depository may desire to make such substitution, so long as the securities desired to be substituted by such bank shall come within the classification of securities acceptable under the terms of this Act.

If, in any case, or at any time, such bonds or other securities are not satisfactory security, in the opinion of the Board, for the deposits made under this Act, they may require such additional security to be given as will be satisfactory to them. Said Board shall, from time to time inspect such bonds and see that the same are actually kept in the vaults of the State Treasury and in said custodian banks. In the event that any State Depository shall fail to pay deposits or any part thereof on the check of the Treasurer, he shall have the power to forthwith realize upon such bonds or other securities deposited by said bank, and disburse the money arising therefrom, according to law, upon the warrants drawn by the Comptroller upon the funds for which said bonds or other securities were secured. Any bank making deposits of bonds or other securities with the Treasurer under the provisions of this Act may cause such bond or other securities to be endorsed or stamped, as they may deem proper, so as to show that they are deposited as collateral and not transferable, except as herein provided.

Upon request of the owner or owners, the Treasurer or custodian bank may surrender interest coupons or other evidence of interest when due on securities deposited by depository banks, provided, said securities are ample to meet the requirements of the State.

Whenever any private bank now organized as provided for by the private banking laws of Texas should seek to become a depository for State funds or any other governmental agency, it shall agree in writing to submit itself to examination as to its solvency. [As amended Acts 1934, 43rd Leg., 2nd C.S., p. 133, ch. 63, § 2; Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2531. [2424] Failure to qualify

In case any bank that has submitted an application for State funds shall fail to qualify within the time specified in this Act after being notified to do so, it shall forfeit its right to act as a depository for a period of one year, at the option of the Board. [As amended Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937; effective August 1, 1937.

See note to article 2525.

Art. 2532. [2425] Placing deposits

After the depositories have qualified as provided in the preceding articles, it shall be the duty of the Treasurer to deposit the funds belonging to the State in such depositories, as far as practical on a fair percentage basis, and shall at all times keep such funds equitably prorated in proportion to the amount which each is entitled to receive by drawing warrants alternately thereon, or by apportioning the warrants so drawn, and after giving the notice required for the withdrawal of funds deposited to the credit of any "time deposits" in any State Depository or Depositories.

No depositories shall be entitled to keep on deposit State funds in an amount in excess of their paid up capital stock and permanent surplus. Any reduction in the capital stock and permanent surplus of any depository shall reduce correspondingly the amount of State funds which it can retain as a depository, and the Treasurer is authorized to withdraw from said depository any funds in excess of its capital and permanent surplus, provided, that where any depository shall pledge as security for State funds on deposit with it warrants drawn upon the State Treasury against the General Fund of this State as provided by Article 2529, and shall also make the proof required in such Article that such warrants were acquired by it as therein provided, then the limitation upon the amount of deposits that may be placed in said depository shall not apply, but the amount of said funds to be deposited in said depository shall be determined by the State Depository Board.

If there be a surplus after the awards are made, the surplus shall be prorated among the applying banks.

Such provisions, however, shall not affect arrangements for clearing checks made by said Board with State Depositories as hereinafter provided.

All State Depositories shall collect all checks, drafts and demands for money so deposited with them by the Treasurer and when using due diligence shall not be liable on such collections until the proceeds thereof have been duly received by the Depository Bank, provided, that any expense incurred in collection thereof by the Depository which the Depository is not allowed or permitted to pay by reason of any Act of the Congress of the United States or any rule or regulation promulgated thereunder by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation shall be charged to and paid by the State Treasurer out of any moneys appropriated by the Legislature for that purpose.

If there should be at any time a surplus of State funds above the aggregate amount applied for by and allotted to State Depositories, the Treasurer, with the approval of the Board, is hereby authorized to deposit said surplus funds in the vaults of the State Treasury, or the Board shall have the power to deposit said surplus, or any part thereof with any one or more banks in such amounts and for such periods as it may deem advisable, and any bank receiving such deposits under this Article shall execute a bond or furnish collateral in the manner and form provided in Article 2529 under the conditions provided in said Article.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

The State Depositories shall show in their statements, published according to law, the amount of State funds on deposit with them. [As amended Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2533. [2428] Centrally located depositories

The Board shall designate one or more banks which have been selected as State Depositories in centrally located cities to be used for clearing checks and other obligations due the State, and the Treasurer shall keep sufficient moneys on deposit in the "demand deposits" account in said Depositories to meet all current claims upon the State, and all items received by the Treasurer for collection shall be deposited with such Depositories to be credited to the "demand deposits" account in said banks, and all checks drawn by the Treasurer for the payment of obligations due by the State may be drawn on such accounts in such Depositories or on the "demand deposits" account in other State Depositories so that the checks of the State may at all times pass current as cash. [As amended Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2534. [2431] Withdrawals

The funds on deposit with depositories shall be subject to withdrawal at any time by the Treasurer, except funds designated by the Board as "time deposits" which shall be withdrawn in the manner agreed upon in the contract under which such funds have been deposited. [As amended Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2535. [2429] Remittances

All State Depositories shall remit free of charge, except such charges which depository is not allowed or permitted to pay by reason of any Act of the Congress of the United States or any rule or regulation promulgated thereunder by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, to the Treasurer on his demand, all withdrawals of State funds as provided for in the preceding Article. All remittances to the Treasurer made by the State Depositories, or any person or persons may be in cash by registered and insured letter; by post office money order; express money order of any company authorized to do business in Texas, or by any bank draft on any bank in the following cities: Dallas, Fort Worth, Waco, Houston, Austin, Galveston and San Antonio. The liability of any State Depository or person sending the same shall not cease until the said money is actually received by the Treasurer. Any depository that refuses to remit for State items, or Treasury drafts, as above indicated, shall upon order of the Board forfeit its right to receive further deposits, and the Board shall have the right to withdraw all funds from said bank, which shall thereafter cease to be a State Depository. [As amended Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2537. [2432] Cancellation of contracts

Each State Depository shall have the right to cancel its depository contract upon accounting to the Treasurer for all funds deposited with it at the end of any year by giving thirty (30) days notice in advance.

The Board shall have the right to terminate a contract with the depository at any time they deem it to the interest of the State to do so, upon giving the depository fifteen (15) days notice of such termination. The Treasurer shall discontinue making deposits in any bank when in the opinion of the Board the condition or management of the bank warrants such action on his part. [As amended Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1; Acts 1937, 45th Leg., S.B. # 240, § 1.]

Amendment of 1937, effective August 1, 1937.

See note to article 2525.

Art. 2539. [Repealed by Acts 1937, 45th Leg., S.B. #240, § 3]

Prior to repeal of this article in 1937 this article by Acts 1927, 40th Leg., 1st C.S., p. 161, ch. 57, § 1. Effective August 1, 1937.

It was amended by Acts 1933, 43rd Leg., 1st C.S., p. 231, ch. 89, § 1, which amendment made no reference to the repeal of

CHAPTER TWO—COUNTY DEPOSITORIES**Art. 2544. [2440] Notice to banks**

The Commissioners Court of each county is hereby authorized and required at the February Regular Term thereof next following each general election to enter into a contract with any banking corporation, association or individual banker in such county for the depositing of the public funds of such county in such bank or banks. Notice that such contracts will be made by the Commissioners Court shall be published by and over the name of the County Judge, once each week for at least twenty (20) days before the commencement of such term in some newspaper published in said county; and if no newspaper be published therein, then in any newspaper published in the nearest county. In addition thereto, notice shall be published by posting same at the courthouse door of said county. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Section 4 of the amendatory Act of 1937, cited to the text (article 2566a of this title), provides that security for deposits shall not be required to the extent covered by Federal Deposit Insurance.

Section 5 cited to the text, reads as follows:

"This Act shall not become operative until on and after August 1, 1937, and all banks that are now designated as county depositories or the depositories for any city, town or village, or the depository for any trust funds shall be required to file new applications and be re-designated under the terms of this Act and the County Commissioners Court of each county and the governing body of any city, town,

or village in this State is hereby authorized to receive applications and to designate new banks as depositories under this Act for the unexpired depository year. All contracts made by County Commissioners Courts of this State and the governing bodies of any incorporated city, town or village with banks as depositories under the laws governing said contracts prior to the passage of this Act and all proceedings in connection therewith are hereby in all things approved and validated."

Section 6 declared an emergency and provided that the act should take effect from and after August 1, 1937.

Art. 2545. [2441] Application by banks

Any banking corporation, association or individual banker in such county desiring to be designated as county depository shall make and deliver to the County Judge an application applying for such funds and said application shall state the amount of paid up capital stock and

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

permanent surplus of said bank and there shall be furnished with said application a statement showing the financial condition of said bank at the date of said application which shall be delivered to the County Judge on or before the first day of the term of the Commissioners Court at which the selection of the depositories is to be made. Said application shall also be accompanied by a certified check for not less than one-half of one per cent of the county's revenue for the preceding year as a guarantee of the good faith on the part of said bank, and that if said bank is accepted, as county depository, that it will enter into the bond hereinafter provided. Upon the failure of the banking corporation, association, or individual banker in such county that may be selected as depository, to give the bond required by law, the amount of such certified check shall go to the county as liquidated damages and the county judge shall readvertise for applications, if necessary, to obtain a county depository for said county. [As amended; Acts 1937, 45th Leg., H.B. # 572, § 1.]

Articles 2545-2558a, effective August 1, 1937.

Art. 2546. [2442] Selecting county depository

It shall be the duty of the Commissioners Court at ten o'clock a. m. on the first day of each term at which banks are to be selected as county depositories, to consider all applications filed with the County Judge, cause such applications to be entered upon the minutes of the Court and to select those applicants that are acceptable and who offer the most favorable terms and conditions for the handling of such funds and having the power to reject those whose management or condition, in the opinion of the Court, does not warrant placing of county funds in their possession. The County Commissioners Court shall have the power to determine and designate the character and amount of county funds which will be deposited by it in said depositories that shall be "demand deposits" and what character and amount of funds shall be "time deposits," and may contract with said depositories in regard to the payment of interest on "time deposits" at such rate or rates as may be lawful under any Act of the Congress of the United States and any rule or regulations that may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. When the selection of a depository or depositories has been made, the checks of those applicants which have been rejected shall be immediately returned. The check or checks of the applicant or applicants whose applications are accepted shall be returned when said depository or depositories enter into and file the bond required by law and said bond has been approved by the Commissioners Court and the State Comptroller, and not until such bond is filed and approved. The term "demand deposits," as used herein, shall mean any deposit which is payable on demand, and the term "time deposits," as used herein, shall mean any deposit with reference to which there is in force a contract, that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration of the period of notice which must be given in writing in advance of withdrawals. [As amended, Acts 1937, 45th Leg., H. B. # 572, § 1.]

Art. 2547. [2443] Bonds

Within fifteen (15) days after the selection of such depository, it shall be the duty of the banking corporation, association or individual

banker so selected, to qualify as county depository in one or more of the following ways, at the option of the Commissioners Court:

(a) By executing and filing with the Commissioners Court a bond or bonds, payable to the County Judge and his successors in office, to be approved by both the Commissioners Court and the Comptroller, and immediately thereafter filed in the office of the County Clerk of said county, said bond to be signed by not less than five solvent sureties who shall own unencumbered real estate in this State not exempt from execution under the Constitution and laws of this State, of a value equal to or in excess of the amount of said bonds where there is more than one bond; said bond or bonds to be in an amount equal to the estimated highest daily balance of such county as determined by the Commissioners Court, such estimated daily balance to be in no event less than seventy-five per cent (75%) of the highest daily balance of said county for the next preceding year, less the amount of bond funds received and expended, provided, however, in the event that county funds derived from the sale of county securities during the term of such bond are deposited, such Commissioners Court shall require additional bond and/or bonds, and/or pledge of securities equal to the amount of such additional county funds. The sureties shall file with the Commissioners Court at the time of filing said bond or bonds a statement containing a description of the unencumbered and non-exempt lands owned by them sufficient to identify such lands on the ground, and such statement shall remain on file with the County Clerk and attached to such bond or bonds; and such statement shall contain a value of each tract of land so listed, together with the value of the improvements thereon.

(b) By having issued and executed by some solvent surety company or companies authorized to do business in the State of Texas, such bond or bonds, as provided by law, to be in the amount and payable as provided in subdivision (a) hereinabove, which said surety bond shall be approved by both the Commissioners Court and the Comptroller, and filed in the office of the County Clerk of said county. Provided, however, such surety company or companies may be relieved of its or their obligation on thirty (30) days' notice in writing to the Commissioners Court, such bonding surety company or companies not to be relieved of any liability for loss sustained by the county prior to the expiration date of such bonds or bond; and provided further, in the event if any surety company or companies shall ask to be relieved of such bond or bonds such depository shall, previous to the termination date of such obligation of such surety company or companies, present further security acceptable to the County Commissioners Court and the Comptroller and filed in the office of the County Clerk of said county, for the securing of county funds in accordance with the provisions of this Act.

(c) In lieu of such personal bonds or surety bonds as above specified, said banking corporation, association or individual banker so selected as county depository, may pledge and said depository bank is authorized to pledge with the Commissioners Court for the purpose of securing such county funds, securities of the following kind, in an amount equal to the amount of such county funds on deposit in said depository bank, to wit: bonds and notes of the United States, securities of indebtedness of the United States, and other evidences of indebtedness of the United States, when said evidences of indebtedness are supported by the full faith and credit of the United States of America and other bonds or other evidences of indebtedness which are guaranteed as to both principal and interest by the United States Government;

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bonds of the State of Texas, or of any county, city, town, independent school district, common school district or bonds issued under the Federal Farm Loan Act or road district bonds, bonds, pledges or other securities issued by the Board of Regents of the University of Texas, bank acceptances of banks having a capital stock of not less than Five Hundred Thousand Dollars (\$500,000); notes or bonds secured by mortgages insured and debentures issued by the Federal Housing Administrator of the United States Government, and bonds issued by municipal corporations in Texas, all said securities having a total market value equal to the amount of the depository bond; an amount of the following described securities not to exceed twenty-five per cent (25%) of the assessed value of the property in the county as shown by the certified tax roll for the preceding year, viz: closed first mortgages on improved and unencumbered real estate situated in the State of Texas, provided such security so offered must be first approved by the Commissioners Court; and before approving such a mortgage tendered as security for deposits the Commissioners Court shall require a written opinion by an attorney selected by the Court showing that the lien so offered is superior to any and all other claims or rights in the property, and the Court shall also require that the improvements on each tract of real estate described in such mortgage be fully insured in some Stock Fire Insurance Company, or a Mutual Fire Insurance Company having One Hundred Thousand Dollars (\$100,000) surplus in excess of all legal reserves and other liabilities, to be approved by the County Judge, with loss payable clause in favor of the County Judge; such mortgage as may be approved as acceptable security under the provisions of this Article shall be assigned to the County Judge by written instrument, duly acknowledged, and the same shall be placed of record forthwith in each county where any part of said real estate is situated; and as security for such deposits, unencumbered, improved real estate, subject to approval of Commissioners Court, may be pledged directly by Deed of Trust executed to a trustee selected by the Commissioners Court, with the County Judge as beneficiary, provided that the Court shall first require the written opinion of an attorney selected by the Court, showing that the lien offered as security for deposits is superior to any and all other claims or rights in the property, and provided further that the Court shall require that all improvements on any real estate, so pledged, be fully insured in a Stock Fire Insurance Company or a Mutual Fire Insurance Company having One Hundred Thousand Dollars (\$100,000) surplus in excess of all legal reserves and other liabilities, approved by the County Judge, with loss payable clause in favor of the County Judge; and the Commissioners Court shall investigate all real estate security and determine the value at which such real estate security as is herein described shall be accepted, provided that in no event shall such security be accepted as collateral at a value in excess of fifty per cent (50%) of the reasonable market value of the real property covered by such mortgages except where such mortgages are insured or guaranteed by the Federal Housing Administrator of the United States, and such real estate security as herein described may be withdrawn and replaced by other real estate securities meeting the requirements of this Act, or any class of securities meeting the requirements of this Act, or any class of securities above enumerated, provided all such withdrawals, substitutions and replacements must be approved by the Commissioners Court; and the County Judge shall execute such instruments as may be necessary to transfer to the depository or its order, all liens, so withdrawn, and said Commissioners Court may accept said securities in lieu of such personal

or surety bonds; and such securities so pledged by such depository bank shall be deposited as the Commissioners Court may direct.

When the securities pledged by a depository bank to secure county funds shall be in excess of the amount required under the provisions of this Article, the Commissioners Court shall permit the release of such excess; and when the county funds deposited with said depository bank shall for any reason increase beyond the amount of securities pledged, said depository bank shall immediately pledge additional securities with the Commissioners Court so that the securities pledged shall at no time be less than the total amount of county funds on deposit in said depository bank. The right of substitution of securities shall be granted to depositories, provided the securities substituted meet with the requirements of the law, and are approved by the Commissioners Court. Upon the request of such depository bank, the Commissioners Court shall surrender interest coupons or other evidence of interest, when due, on securities deposited with the Commissioners Court by such depository bank, provided said securities remaining pledged are ample to meet the requirements of said Commissioners Court. Such depository may secure said funds by one or more of the ways herein provided, at the option of the Commissioners Court.

The condition of the personal bond or bonds, or contract for securities pledged, as hereinabove provided, shall be conditioned for the faithful performance of all the duties and obligations devolving by law upon such depository, and for the payment upon presentation of all checks drawn upon any "demand deposit" account in any depository by the county treasurer of the county and all checks drawn upon any "time deposit" account upon presentation, after the expiration of the period of notice required in the case of "time deposits," and that said county funds shall be faithfully kept by said depository and accounted for according to law. Any suits arising thereon shall be tried in the county for which such depository is selected; and provided further, that upon reasonable notice to the Commissioners Court such county depository may change from time to time its method of securing such funds so long as the same are at all times secured in the amount and manner specified herein.

Where separate bonds are given to secure county funds, each surety thereunder shall be liable only for such part of any loss sustained by failure of the depository as the amount of each bond shall bear to the aggregate amount of all bonds and/or securities held by the county for protection of the funds covered by said bonds.

In the event of payment of a loss to the county by personal sureties or surety companies, said sureties shall be subrogated by the county in the amounts such payment bears to the deposit secured by them or it at the time of default of the depository.

It shall be the duty of the Commissioners Court to investigate and inquire into the solvency of each and every surety on any personal bond or bonds so filed by such county depository and accepted by the Commissioners Court and approved as required by law, at least twice during each and every year such bonds are effective and in force, and for that purpose shall have authority to require each surety to render an itemized and verified financial statement under oath showing his true financial condition. If any such statement or statements indicate that any of said sureties have become insolvent, or their net worth depreciated below the amount required by law as such sureties, or if any of the assets listed are shown to be, or are known to be depreciated, or their value in any way impaired, then and in any such events the Commissioners Court shall require a new bond meeting fully the

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requirements of this law; and in case of a bond or bonds the sureties on which are required to own unencumbered and non-exempt real estate as herein provided, such statement shall show each tract of land owned by each surety and the value thereof, and if the statements provided for herein shall indicate that any of such lands have been disposed of or encumbered and the value of the remaining unencumbered or non-exempt lands shall not be sufficient to meet the requirements of this law, then the said Commissioners Court shall require a new bond meeting fully the requirements of this law. The Commissioners Court shall at any time it may deem necessary for the protection of the county, investigate and inquire into the solvency of any surety company or companies issuing a bond or bonds for any depository, and to investigate the value of any of the securities that may be pledged by such depository in lieu of the personal bond; and such Commissioners Court may request any such depository if it deem advisable, to execute a new bond. If said new bond required by the Commissioners Court for any reason as herein specified be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the Commissioners Court may proceed to the selection of another depository in the same manner as provided for the selection of a depository at the regular time for such selection. Nothing in this law shall in any manner limit, restrict or prevent the Commissioners Court from requiring any depository to execute a new bond at any time such Commissioners Court may deem it necessary for the protection of the county. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Section 4 of the amendatory act of 1937, shall not be required to the extent covered by Federal Deposit Insurance. cited to the text (article 2566a of this title), provides that security for deposits

Art. 2548. Additional bond

Whenever, after the creation of a county depository, as by this Act provided, there shall accrue to the county or any subdivision thereof, any funds or moneys from the sale of bonds or otherwise, the Commissioners Court of such county at its first meeting after such special funds shall have come into the Treasury, or depository of such county, or so soon thereafter as may be practicable, may make written demand upon the duly accredited and established depository of the county for a special additional bond as such depository in a sum equal to the whole amount of such special fund, to be kept in force so long as such funds remain in such depository. Such extra or special bond may be cancelled and a new bond contemporaneously substituted therefor as such special fund may have been reduced. Such special bond shall at all times be sufficient in amount to cover such special fund then on hand. Upon the failure of such depository to furnish such additional bond within thirty (30) days from the date of such demand, the Commissioners Court may cause such special funds to be withdrawn, upon the draft of the county treasurer from such depository, and cause the same to be deposited in some solvent National bank or State bank whose combined capital stock and surplus is in excess of such special fund, and to leave the same or so much thereof as may not have been expended with such National bank or State bank of last deposit, until such time that such county depository may have filed with the Commissioners Court the required additional bond, when such special fund or so much thereof as shall not have been expended shall be forthwith returned to and deposited with such county depository. The requiring of such additional or special bond shall be optional with such Commissioners Court. When a banking institution selected, qualified and

acting as a county depository shall become insolvent and it shall become necessary to resort to the depository bond or bonds to collect the county and State funds deposited therein, payment shall be made to the county and State pro rata. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2549. [2444] Designating depository

As soon as said bond be given and approved by the Commissioners Court, and the Comptroller, an order shall be made and entered upon the minutes of said Court designating such banking corporation, association or individual banker, as a depository for the funds of said county until sixty (60) days after the time fixed for the next selection of a depository; and thereupon, it shall be the duty of the county treasurer of said county immediately upon the making of such order, to transfer to said depository all the funds belonging to said county, as well as all funds belonging to any district or other municipal subdivision thereof not selecting its own depository, and immediately upon receipt of any money thereafter, to deposit the same with said depository to the credit of said county, district and municipalities. It shall also be the duty of the tax collector of such county to deposit all taxes collected by him, or under his authority, for the State and such county and its various districts and other municipal subdivisions, in such depository or depositories, as soon as collected, pending the preparation of his report of such collection and settlement thereon. The bond of such county depository or depositories shall stand as security for all such funds. Upon such funds being deposited as herein required, the tax collector and sureties on his bond, shall thereafter be relieved of responsibility of its safekeeping. All county depositories shall collect all checks, drafts and demands for money so deposited with them by the county and when using due diligence shall not be liable on such collections until the proceeds thereof have been duly received by the depository bank, provided that any expense incurred in collection thereof by the depository, which the depository is not allowed or permitted to pay or absorb by reason of any act of Congress of the United States or any regulation by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, shall be charged to and paid by the county. All money collected or held by any district, county or precinct officer in such county, or the officers of any defined district or subdivision in such county, including the funds of any municipal or quasi-municipal subdivision or corporation which has the power to its own depository, but has not done so, shall be governed by this law, and shall be deposited in accordance with its requirements, and shall be considered in fixing the bond of such depository, and shall be protected by such bond; and all warrants, checks, and vouchers evidencing such funds shall be subject to audit and countersignature as now or hereafter provided by law. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2550. [2445] Deposits not applied for

If for any reason no applications are submitted by any banking corporation, association or individual banker to act as county depository or in case all applications shall be declined, then in any such case, the Commissioners Court shall have the power, and it shall be their duty to deposit the funds of the county with any one or more banking corporations, associations or individual bankers in the county or in the

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adjoining counties in such amounts and for such periods as may be deemed advisable by the Court. Any bank or banking concern receiving deposits under this Article shall execute a bond in the manner and form provided for depositories of county funds with all the conditions provided for same, the penalty of said bonds to be not less than the total amount of county funds deposited with such bank or banking concern. [As amended, Acts 1935, 44th Leg., p. 394, ch. 152, § 1; Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2551. [2446] Clearing house to be selected

When the funds of any county shall be deposited with two or more depositories, the Commissioners Court shall select and name by order one of said depositories to act as a clearing house for the others, at which all county warrants shall be finally paid. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2552. [2447] Checks payable at county seat

It shall be the duty of the depository or depositories to pay, upon presentment at the county seat of the county, or in the case of "time deposits" to pay upon presentment after the expiration of the period of notice agreed upon, all checks or warrants drawn by the county treasurer upon the funds of said county deposited with said depository or depositories, as long as such funds shall be in the possession of such depository subject to such checks or warrants. For every failure to pay such check or warrant at such county seat either upon presentment in case of "demand deposits," or upon presentment after the expiration of the period of notice required in the case of "time deposits" said depository or depositories shall forfeit and pay to the holder of such check ten per cent (10%) of the amount thereof; and the Commissioners Court shall revoke the order creating such depository or depositories. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2553. [2448] Depository not located at county seat

If any depository selected by the Commissioners Court be not located at the seat of such county, said depository shall file with the county treasurer of such county a statement designating the place at said county seat where, and the person by whom, all deposits may be received from the treasurer for such depository, and where and by whom all checks will be paid; and such depository shall cause every check to be paid upon presentation or upon presentation at the expiration of the period of notice in the case of "time deposits" at the place so designated so long as the said depository has sufficient funds to the credit of said county applicable to its payment. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2554. [2449] Warrants, how paid and charged

It shall be the duty of the county treasurer upon the presentation to him of any warrant, check, voucher, or order drawn by the proper authority, if there be funds sufficient for the payment thereof on deposit in the account against which such warrant is drawn, to endorse upon the face of such instrument his order to pay the same to the payee named therein and to charge the same on his books to the fund upon which it is drawn. The county treasurer shall not make an endorsement upon any warrant, check, voucher, or order, upon any funds deposited with said depository or depositories which are designated as "time deposits" until after notice is duly given and the time has

expired as required in the contract with said depository in designating said funds as "time deposits." It shall be the duty of such depository to make a detailed monthly statement to the Commissioners Court at each regular term of said Court showing the daily balances to the credit of each of the funds on deposit. In case any bonds, coupons, or other indebtedness of any county by the terms thereof are payable at any place other than the treasury of the county, nothing herein contained shall prevent the Commissioners Court of such county from causing the treasurer to place a sufficient sum at the place where such debts shall be payable at the time and place of their maturity, provided such payments shall be made in the manner prescribed by law. All checks or warrants issued or drawn by any officer under the provisions of this Act, shall be subject to all the laws and regulations providing for auditing and countersigning and all such laws and regulations are hereby continued in full force and effect. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2555. [2450] May select at subsequent term

If for any reason, no selection of a depository be made at the time provided by law, the Commissioners Court may, at any subsequent time after twenty (20) days' notice, select a depository or depositories in the manner provided for such selection at the regular time; and the depository or depositories so selected shall remain the depository or depositories until the next regular time for selecting a depository, unless the order selecting and naming such depository be revoked for lawful reasons. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2556. [2451] New bond may be required

If the Commissioners Court shall at any time deem it necessary for the protection of the county, it may require any depository to execute a new bond; and, if said new bond be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the Commissioners Court may proceed to the selection of another depository in the manner provided for the selection of a depository at the regular time for such selection. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2557. [2452] Liability of Treasurer

The county treasurer shall not be responsible for any loss of the county funds through the failure or negligence of any depository; but nothing in this Act shall release any county treasurer for any loss resulting from any official misconduct or negligence on his part, nor from any responsibility for the funds of the county until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds by him. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2558. [2458] Applications from adjoining counties

If there be no bank or banks situated within the county that seeks to be designated as county depository, then in that event the Commissioners Court shall be authorized to advertise for applications from banks in adjoining counties or any other counties in this State in the manner provided by law of this State with reference to advertising in the counties desiring such depositories. When a depository has been selected by the Commissioners Court in the manner as provided herein, said depository shall, within five (5) days after notice of such

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designation and selection, file with county treasurer of such county a statement designating the place at said county seat where, and the person by whom all deposits may be received from the treasurer for such depository, and where and by whom all checks will be paid. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 1.]

Art. 2558a. Depositories for trust funds in hands of county and district clerks—applications

Section 1. The Commissioners Court of each county is authorized and required at the February term thereof next following each general election to receive applications from any banking corporation, association or individual banker in such county as may desire to be selected as a depository for Trust Funds in possession of the County and District Clerks. Said applications shall be filed with the County Clerk on/or before ten o'clock a. m. on the first day of the term of Court at which said applications are to be received. Said application shall be accompanied by a certified check for not less than one-half of one per cent of the average daily balances of the amount of Trust Funds in the possession of the Clerks during the preceding calendar year which amount shall be determined by the County Clerk on/or before ten (10) days before the applications herein provided for are required to be filed, and a certified check accompanying the application as herein provided for in the amount so determined by the County Clerk shall be sufficient compliance with this provision, which certified check shall be a guarantee of the good faith on the part of the applicant, and that if his application is accepted the bond hereinafter provided for will be entered into. Upon the failure of the banking corporation, association or individual banker that may be selected as such depository, to give the bond required by law, the amount of such certified check shall go to the county as liquidated damages, and the county shall select another depository as hereinafter provided. In the event any application shall not be accepted, the certified check accompanying the same shall be returned. The check of the applicant whose application is accepted shall be returned when his bond is filed and approved by the Commissioners Court and not until such bond is filed and approved. It shall not be necessary for the county to advertise or give notice that applications will be received as provided by this Statute.

Entry of applications and selection of depository

Sec. 2. It shall be the duty of the Commissioners Court at ten o'clock a. m. on the first day of each term at which applications are required to be received to enter said applications on the minutes of the Court and to select a depository for the Trust Funds in the possession of County and District Clerks.

Qualification of depository

Sec. 3. Within thirty (30) days after the selection of such depository, it shall be the duty of the banking corporation, association, or individual banker so selected to qualify in the same manner as now provided by law for the qualification of county depositories.

Entry of order designating depository; funds deposited; failure to select new depository

Sec. 4. As soon as said depository has qualified as provided by law and has been approved by the Commissioners Court, said Court shall make and enter an order upon the minutes, designating such banking

corporation, association, or individual banker as County Depository for Trust Funds until the designation and qualification of a successor, and thereupon it shall be the duty of the County and District Clerks of such county to deposit all Trust Funds in their possession with said depository in the manner hereinafter provided; provided, in the event, a new depository has not been selected and qualified by April 15th succeeding the term of Court at which a depository is required to be selected as required by this Act, then the term of such depository shall end and all Trust Funds due or on deposit shall be paid to the Clerk in whose name the account is carried.

Advertisement for applications under certain conditions

Sec. 5. If for any reason there shall be submitted no application by any banking corporation, association or individual banker in the county, or in case there shall be no application for the entire amount of Trust Funds, or in the event all applications submitted have been rejected by the Commissioners Court, or in the event a depository selected has failed to qualify, or in the event that the depository shall become insolvent, or in the event a new depository has been selected on account of the failure of the regular depository to execute a new bond as hereinafter provided, then in either event, the Commissioners Court shall advertise for applications from any banking corporation, association, or individual banker within the State of Texas, and may select a depository, which depository shall qualify in the manner above provided. Notice of the selection of a depository as provided by this Act shall be published once each week for two (2) successive weeks in a newspaper of general circulation within the county, if there be such newspaper. If there is no newspaper published in the county, then the same shall be posted at the courthouse for said period. In the discretion of the Commissioners Court said notice may also be published in any newspaper outside of the county for the same length of time.

Provision for payment on presentment of checks; penalty

Sec. 6. It shall be the duty of the depository to provide for the payment at the county seat of the county upon presentment all checks drawn by the County or District Clerk upon the funds deposited in the name of such Clerk as long as such funds shall be in the possession of the depository subject to such checks. For every failure to pay such check at such county seat upon presentment, said depository shall forfeit and pay to the holder of such checks ten per cent (10%) of the amount thereof.

Depository not located at county seat

Sec. 7. If any depository selected by the Commissioners Court be not located at the seat of such county, said depository shall file with the County Clerk of such county, a statement designating the place at said county seat where, and the person, firm or corporation by whom, all the deposits may be received from the Clerks for such depository, and where and by whom in said county seat all checks drawn on such depository will be paid and such depository shall cause every check to be paid upon presentation at the place so designated so long as the said depository has sufficient funds to the credit of such funds applicable to their payment.

New bond

Sec. 8. If the Commissioners Court shall at any time deem it necessary for the protection of the Trust Funds, it may require any depository

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to execute a new bond. If said new bond is not filed within fifteen days from the time of the service of a copy of said order upon said depository, the Commissioners Court may proceed to the election of another depository in the manner provided for the selection of a depository as provided in this Act.¹

County and District Clerks not responsible for loss of trust funds through depository's failure or negligence

Sec. 9. The County and District Clerks shall not be responsible for any loss of the Trust Funds through failure or negligence of any depository, but nothing in this Act¹ shall release any County or District Clerk for any loss resulting from any official misconduct or negligence on his part nor from any responsibility for such Trust Funds until a depository shall be selected and the funds deposited therein nor for any misappropriation of such funds by him. Upon the deposit in the legally selected depository of the Trust Funds by any County or District Clerk, such Clerk shall thereafter be relieved of the safe-keeping of said funds.

Loss of deposit on account of insolvency of depository or other cause; liability of county

Sec. 10. In the event of the insolvency of any depository, or if for any reason, on account of the deposit of the Trust Funds with any depository, any part of said funds are lost, the county shall be liable to the person to whom any part of said Trust Funds is due for the full amount of said funds due such person.

Duty to deposit; Trust Fund account

Sec. 11. Any County or District Clerk having the custody by law of any money that may have been deposited in court to abide the result of any legal proceeding, which amount is to be in his possession for a period longer than three (3) days, shall deposit the same in the county depository for Trust Funds, if there be such a depository. The funds deposited by the Clerk shall be carried as a Trust Fund account in the name of the Clerk making the deposit, and same shall be subject to withdrawal by the Clerk under the conditions set out in the succeeding paragraph of this Act.¹

Withdrawal of deposits by check

Sec. 12. Except upon an order of the Judge of the Court in which funds have been deposited, no check shall be drawn on said depository for any part of said funds by the Clerk except for payment to the person or persons to whom the amount of said check is due. All checks drawn by the Clerks shall show the style and number of the proceeding in which said money was deposited with the Clerk.

Transfer of funds to new depository

Sec. 13. If at any time, a new depository has been selected and qualified, it shall be the duty of the County and District Clerks to transfer to the new depository all funds in said depository in the name of such Clerk and for this purpose a check may be drawn on such funds by such Clerks.

Failure to select depository

Sec. 14. In the event there has been no selection of a county depository for Trust Funds, each County or District Clerk having the custody by law of any money, evidence of debt, script, instrument of

writing, or other legal proceeding shall seal up in a secure package the identical money or other article received by him and deposit the same in some iron safe or bank vault. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 2.]

¹ This article and Pen.Code, art. 333a.

CHAPTER THREE—CITY DEPOSITORIES

Art.

2566a. Security for deposits not required to extent covered by Federal Deposit Insurance [New].

Art. 2559. [2454] Council to take applications for depository

The governing body of every city, town and village in the State of Texas, incorporated under either the General or Special Laws, including those operating under special charter or amendments of charter adopted pursuant to the "Home Rule" provisions of the Constitution, is authorized to receive applications for the custody of city funds from any banking corporation, association or individual banker doing business within the city, town or village that may desire to be selected as a depository of the city, town or village. The school funds, from whatever source derived of incorporated cities, is part of the city funds and is subject to the provisions of this Act. Notice that such applications will be received shall be published by the City Secretary not less than one (1) nor more than four (4) weeks before said meeting in some newspaper published in that city. Any banking corporation, association or individual banker doing business in the city, town or village desiring to apply to be designated as a depository of the funds of such city, town, or village shall deliver to the city secretary on/or before the day of such meeting designated by such published notice, its application for such funds. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Articles 2559-2566a, effective August 1, 1937.

Section 5 of the amendatory act of 1937, cited to the text, reads as follows: "Sec. 5. This Act shall not become operative until on and after August 1, 1937, and all banks that are now designated as county depositories or the depositories for any city, town or village, or the depository for any trust funds shall be required to file new applications and be re-designated under the terms of this Act and the County Commissioners Court of each county and

the governing body of any city, town, or village in this State is hereby authorized to receive applications and to designate new banks as depositories under this Act for the unexpired depository year. All contracts made by County Commissioners Courts of this State and the governing bodies of any incorporated city, town or village with banks as depositories under the laws governing said contracts prior to the passage of this Act and all proceedings in connection therewith are hereby in all things approved and validated."

Art. 2560. [2455] Award and bond

Upon considering the applications submitted, the governing body shall select as the depository or depositories of such funds the banking corporations, association or individual banker or bankers offering the most favorable terms and conditions for the handling of such funds. The governing body of such city, town or village shall have the right to reject any and all applications and readvertise for any applications. The governing body of such city, town or village shall have the power to determine and designate the character and amount of city funds which will be deposited by it in said depositories that shall be "demand deposits" and what character and amount of funds shall be "time deposits," and may contract with said depositories in regard to the payment of interest on "time deposits" at such rate or rates as may

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be lawful under any Act of Congress of the United States and any rule or regulations that may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. The term "demand deposits," as used herein, shall mean any deposit which is payable on demand, and the term "time deposits," as used herein, shall mean any deposit with reference to which there is in force a contract, that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration of the period of notice which must be given in writing in advance of withdrawals. Within five (5) days after the selection of such depository or depositories, it shall be the duty of the banking corporation or corporations, association or associations, individual banker or bankers so selected to qualify as city depository in one or more of the following ways at the option of the governing body of such city, town or village:

(a) By executing and filing with the governing body a bond or bonds, payable to the city, to be approved by the governing body, said bond to be signed by not less than five (5) solvent sureties who shall own unencumbered real estate in this State not exempt from execution under the Constitution and Laws of this State of a value equal to or in excess of the amount of said bond, or of a value equal to or in excess of the amount of said bonds when there is more than one bond; and said bond or bonds shall in no event be for less than the total amount of the revenue of such city for the next preceding year for which said bond or bonds are made. The sureties shall file with the city at the time of filing said bond or bonds a statement containing a description of the unencumbered and non-exempt lands owned by them sufficient to identify such lands on the ground, and such statement shall remain on file with the City Secretary attached to such bond or bonds, which statement shall contain a fair estimate of the value of each tract of land so listed, together with the value of the improvements thereon.

(b) By having issued and executed by some solvent surety company or companies authorized to do business in the State of Texas, such bond or bonds, as provided by law, to be in the amount and payable as provided in subdivision (a) hereinabove, which said surety bond shall be approved by the governing body and filed with the City Secretary.

(c) By executing and filing with the governing body a bond or bonds in an amount and payable as provided in subdivision (a) hereinabove to be approved by the governing body and filed with the City Secretary of such city, said bond or bonds to be signed by not less than five (5) solvent sureties who shall prepare and file with the governing body, at the time of the filing of said bond, an itemized and verified financial statement, which shall show the aggregate net worth of all to be equal to or in excess of the amount of such bond or bonds as hereinabove provided for.

(d) In lieu of such personal bonds or surety bonds as above specified, said banking corporation or corporations, association or associations or individual banker or bankers so selected as the city depository may pledge and said depository is hereby authorized to pledge with the governing body of such city for the purpose of securing such city funds, securities of the following kind in an amount equal to the amount of said city funds on deposit in said depository bank or banks, to wit: United States Bonds, Certificates of Indebtedness of the United States, Treasury notes of the United States and other evidences of indebtedness of the United States which are guaranteed as to both principal and interest by the United States Government, bonds of the State of

Texas, or of any county, city, town, independent school district, common school district or other school districts in the State of Texas, or bonds issued under the Federal Farm Loan Act or road district bonds, bonds, pledges or other evidences of indebtedness issued by the Board of Regents of the University of Texas, notes or bonds secured by mortgages insured and debentures issued by the Federal Housing Administrator of the United States Government; bank acceptances of banks having a capital stock of not less than Five Hundred Thousand Dollars (\$500,000), and bonds issued by municipal corporations in Texas; and said city may accept said securities in lieu of such personal or surety bonds, which securities so pledged shall be deposited as the governing body may direct. It is provided, however, that such securities so pledged shall be approved as to kind and value by the governing body.

When the securities pledged by the depository bank to secure city funds shall be in excess of the amount required under the provisions of this Act, the governing body of such city, shall permit the release of such excess; and when the city funds deposited with such depository bank shall for any reason increase beyond the amount of securities pledged, said depository bank shall immediately pledge additional securities with the governing body so that the securities pledged shall at no time be of a value of less than the total amount of city funds on deposit in said depository bank. Provided, however, the determination of such value shall be in the discretion of the governing body whose decision shall be final and binding on such depository. The right of substitution of securities shall be granted to depositories, provided the securities substituted meet with the requirements of the law and are approved by the governing body. Upon the request of such depository bank, the governing body shall surrender interest coupons or other evidence of interest, when due, on securities deposited with said governing body by such depository bank, provided said securities remaining pledged are ample to meet the requirements of this Act and of such governing body.

The condition of the personal bond or bonds or surety company bond or contract for securities pledged as hereinabove provided, shall be conditioned for the faithful performance of all the duties and obligations devolving by law upon such depository, and for the payment upon presentation of all checks drawn upon any "demand deposit" account in said depository or upon presentation upon any "time deposit" after the expiration of the period of notice required in the case of "time deposits," by the City Treasurer of the city and that said city funds shall be faithfully kept by said depository and accounted for according to law. Any suits arising thereon shall be tried in the county in which such city, town, or village is located.

It shall be the duty of the governing body to investigate and inquire into the solvency of each and every surety on any personal bond or bonds so filed by such city depository and accepted by the governing body and approved as required by law, at least twice during each and every year such bonds are effective and in force, and for that purpose shall have authority to require each surety to render an itemized and verified financial statement under oath showing his true financial condition. If any such statement or statements indicate that any of said sureties have become insolvent, or their net worth depreciated below the amount required by law as such sureties, or if any of the assets listed are shown to be, or are known to be depreciated, or their value in any way impaired, then and in any of such events the governing body shall require a new bond meeting fully the requirements of this law; and in case of a bond or bonds, the sureties on which are required to

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

own unencumbered and non-exempt real estate as herein provided, such statement shall show each tract of land owned by each surety and the value thereof, and if the statements provided for herein shall indicate that any of such lands have been disposed of or encumbered and the value of the remaining unencumbered or non-exempt lands shall not be sufficient to meet the requirements of this law, then the said governing body shall require a new bond meeting fully the requirements of this law. The governing body shall at any time it may deem necessary for the protection of the city, investigate and inquire into the solvency of any surety company or companies issuing a bond or bonds for any depository, and to investigate the value of any of the securities that may be pledged by such depository in lieu of the personal bond; and such governing body may require any such depository, if it deems advisable to execute a new bond, or to deliver into pledge additional or other securities. If said new bond or securities required by the governing body for any reason, as herein specified, be not filed within five (5) days from the time of the service of a copy of said order upon said depository, the governing body may proceed to the selection of another depository in the same manner as provided for the selection of a depository at the regular time for such selection. Nothing in the law shall in any manner limit, restrict, or prevent the governing body from requiring any depository to execute a new bond at any time such governing body may deem it necessary for the protection of the city. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Art. 2561. [2456] Designating depository, etc.

As soon as said bond shall be given and approved, an order shall be made by the council designating said banking corporation, association, or individual banker, as the depository of the funds of the city until the time fixed by this Act for another selection, and such order shall be entered upon the minutes. It shall be the duty of the city treasurer, immediately upon the making of said order, to transfer to said depository all the funds in his hands belonging to the city, and immediately upon the receipt of the money thereafter, he shall deposit the same with said depository to the credit of the city. If any banking corporation, association or individual banker, after having been selected as such depository, shall fail to give bond within the time provided by this Act, then the selection of such banking corporation, association, or individual banker, as the depository of the city funds shall be set aside and be null and void, and the governing body shall, after the notice published in the manner hereinbefore provided, proceed to receive new applications and select another depository. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Art. 2562. [2457] Warrant and checks paid

The city treasurer, upon presentation to him of any warrant drawn by the proper authority, if there shall be enough money in the depository belonging to the fund upon which said warrant is drawn and out of which the same is payable, shall draw his check as city treasurer upon the city depository in favor of the legal holder of said warrant, and to take up said warrant, and charge the same to the fund upon which it is drawn. In no case shall the city treasurer draw any check upon any fund in the city depository, unless there is sufficient money belonging to the fund upon which said warrant is drawn to pay the same, nor shall said city treasurer draw any check upon any funds deposited with said depository or depositories which are designated

as "time deposits" until after notice is duly given and the time has expired, as required in the contract with said depository in designating said funds as "time deposits." No money belonging to the city shall be paid out of the city depository, except upon checks of the city treasurer. All such checks shall be payable by said depository at its place of business in the city. In case any bonds or coupons or other indebtedness of the city are payable, by the terms of such bonds, coupons or other indebtedness, at any particular place other than the city treasury, nothing herein shall prevent the governing body from causing the treasurer to withdraw from the depository and to place at the place where such bonds, coupons or other indebtedness shall be payable at the time of their maturity, a sufficient sum to meet the same. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Art. 2563. [2458] May select at subsequent meeting

If for any reason no selection of a depository is made at the time fixed by this Act, said governing body may, at any subsequent meeting, after notice published as hereinbefore provided, receive applications and select a depository in the manner herein set out, and the banking corporation, association, or individual banker so selected shall remain the depository until the next regular term for the selection of a depository unless the order selecting it be revoked for the causes specified in this Act. If the governing body shall at any time deem it necessary for the protection of the city, it may by resolution, require the depository to execute a new bond; and upon failure to do so within five (5) days after the service of a copy of the resolution on said depository, said body may proceed to select another depository in the manner hereinbefore provided. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Art. 2564. [2458] Liability of treasurer

The City Treasurer shall not be responsible for any loss of the city funds through negligence, failure or wrongful act of such depository, but nothing in this Act, shall release said treasurer from responsibility for any loss resulting from any official misconduct on his part nor from responsibility for the said funds at any time, when, for any reason, there shall be no city depository, nor until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds in any manner by him. [As amended, Acts 1937, 45th Leg., H. B. # 572, § 3.]

Art. 2565. [2459] Restrictions upon drawing

No check shall be drawn upon the city depository by the treasurer, except upon a warrant signed by the mayor and attested by the secretary, except where cities are operating under charter provisions that provide for the drawing of checks or warrants on the depository or city funds in a different manner than is herein provided. No warrant shall be drawn by the mayor and secretary upon any of the special funds created for the purpose of paying the bonded indebtedness of said city, in the hands of the City Treasurer, or in the depository, for any purpose whatsoever other than to pay the principal or interest of said indebtedness, or for the purpose of investing said special fund according to law. No City Treasurer shall pay or issue a check to pay any money out of any special fund created for the purpose of paying any bonded indebtedness of said city other than for the purpose of paying interest due on said bonds, the principal of said bonds or for the pur-

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pose of making an investment of said funds according to law. The treasurer shall report to the council on or before its first regular meeting in July in each year, the amount of receipts and expenditures of the treasury, the amount of money on hand in each fund, and the amount of bonds falling due for redemption of which provision must be made; also the amount of interest to be paid during the next fiscal year, and such other reports as the existing law requires of him. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Art. 2566. [2460] Definitions of terms

All provisions of this Act shall apply to towns and villages incorporated under the General Laws of Texas, as well as to cities so incorporated, and the terms "City Secretary," and "Secretary" shall be construed to include the clerk or secretary of such towns or villages; the term "City Treasurer" shall be construed to include the treasurer of such towns and villages and the term "city" shall be construed to include towns and villages. [As amended, Acts 1937, 45th Leg., H.B. # 572, § 3.]

Art. 2566a. Security for deposits not required to extent covered by Federal Deposit Insurance

Notwithstanding any provisions of this Act¹ requiring securities for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section 12b of the Federal Reserve Act as amended, or any amendments thereto.² [Acts 1937, 45th Leg., H.B. # 572, § 4.]

¹ Articles 2544-2566.

² 12 U.S.C.A. § 264.

Section 5 of the amendatory act of 1937, cited to the text, see notes under articles 2544 and 2547, ante.

TITLE 49—EDUCATION—PUBLIC

Chap.

20. Teachers' Retirement [New].

CHAPTER ONE—UNIVERSITY OF TEXAS

2. FUNDS AND PROPERTIES

2595a. Donation of tax delinquent lands; conditions; liens.

2. FUNDS AND PROPERTIES

Art. 2595a. Donations of tax delinquent lands; conditions; liens

Section 1. The provisions of this Act shall apply to the University and to branches thereof, which branches may be situated in any City in the State of Texas having a population of not less than one hundred thousand and not more than one hundred and fifty thousand according to the last Federal Census.

Sec. 2. When the owners of any real estate situated in this State have not paid the taxes thereon for a period of three years and donate such land to the Board of Regents of the University of Texas for the use of the said University or any branch of the said University that may be designated by such donor, the said land may be accepted by the said

Board of Regents upon the following terms, to be evidenced by a Resolution by said Board of Regents, to-wit:

First: The said lands must be assessed for taxation at least three times the amount of taxes due thereon.

Second: The said lands and the proceeds thereof shall be applied exclusively to the uses of the beneficiary school as a State owned and operated institution of higher education.

Third: Upon the Commissioners' Court of the County in which the lands, so donated, are situated, certifying to the Board of Regents its approval of such acceptance; and that the advantages to the people from accepting the donation exceed the benefit that would be derived from the sale of said lands at tax sale or under decree of Court.

Fourth: Upon City Council of the City or Town, if said lands be located within the limits of an incorporated City or Town, extending to the Board of Regents a certificate similar to the one herein required of Commissioners' Courts.

Fifth: The said lands, so accepted, shall be used exclusively for the University or the branch thereof as designated by the donor and shall be sold at such time, and under such conditions, and for such amounts as in the judgment of the Board of Regents are for the best interest of the beneficiary school. While held by the Board of Regents they may be leased or rented as to the said Board seems best; and while so held, shall not be liable for any tax and no claim therefor shall be asserted against the said Board nor the lands so accepted, nor shall any action be instituted to compel payment of any tax during the time the said lands, or the proceeds thereof, are held by the Board of Regents for the use and benefit of the University of Texas or the beneficiary college. [Acts 1937, 45th Leg., 2nd C.S., S.B. #8.]

Effective Nov. 3, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to enable the Board of Regents of the University of Texas to accept, on behalf of the State, donation of lands on which taxes are past due, and to appropriate the same to the use and benefit of

the University of Texas or any branch thereof as same may be directed by the donor and to protect the University of Texas or any branch thereof from enforcement of liens for land so donated, and setting forth the terms and conditions on which said lands may be accepted, and enforcements of liens suspended, and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 8.]

Art. 2603a. Board for lease of oil and gas land, powers and duties

Sec. 4. Whenever there shall be such demand for the purchase of oil and gas in any University land as will reasonably insure that said oil and gas may be sold advantageously, the Board shall place said oil and gas in said lands on the market in separate tracts of such area and extent as the Board may determine most suitable for the profitable marketing thereof, but in no event shall any tract in which oil and gas is offered for sale as a unit exceed an area of six thousand (6,000) acres. The sale of said oil and gas shall be made at public auction and shall be held in Austin, Texas, at any hour between ten o'clock A. M. and five o'clock P. M. The Board shall cause to be advertised a brief description of the lands upon which the oil and gas is proposed to be sold, such description to carry the block and survey numbers, or parts of surveys to be combined in one tract or unit; the method and the time and place of the sale; the primary term of the lease proposed to be executed thereon; the royalty to be paid; and such other matters as in the judgment of the Board are deemed advisable. The advertisement shall be made:

(a) By insertion in two or more papers of general circulation in this State;

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(b) By mailing a copy thereof to the County Clerk and the County Judge in the county in which the land is situated;

(c) In addition to the two foregoing mandatory provisions, the Board in its discretion may cause said advertisement to be placed in oil and gas journals in and out of the State and to be mailed generally to such persons as they think might be interested. [As amended Acts 1937, 45th Leg., S.B. # 343, § 1.]

Amendment of 1937, effective April 14, 1937.

Section 8 of the amendatory act of 1937 provides that if any provision of the act

is held unconstitutional, the balance of the act shall not be affected thereby and section 9 declares an emergency making the act effective on and after its passage.

Sec. 5. The oil and gas in each tract shall be offered for sale for a bonus in addition to the stipulated royalty. Each tract shall be offered separately. Each bid shall be subject to such royalty as is specified in the official advertisement preceding the sale, but in no event shall be less than one-eighth of the gross production of oil and gas in the land; and shall further be subject to the payment of an annual rental after the first year of not less than ten (10¢) cents per acre, payable each year in advance, unless the royalties received from such land during the preceding year shall equal or exceed the amount of the annual rental payment; and shall further be subject to the payment of a special fee equal to one (1%) per cent of the total sum bid, which special payment shall constitute a special fund from which the Board is hereby authorized and directed to defray the expenses of the sale, including the payment of the services of the auctioneer crying the sale. The highest bidder shall pay to the Board on the day of sale twenty-five (25%) per cent of the bonus bid, and the fee to defray the expenses herein provided, and the balance shall be paid on notification of the acceptance of the bid. [As amended Acts 1937, 45th Leg., S.B. # 343, § 2.]

Amendment of 1937, effective April 14, 1937.

Sec. 6. [Repealed by Acts 1937, 45th Leg., S.B. # 343, § 3.]
Effective April 14, 1937.

Sec. 7. If any one of the bidders at the sale at public auction shall have offered a reasonable and proper price for any tract offered not less than the price fixed by the Board, the land advertised may be leased for oil and gas purposes under the terms of this Act and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. All bids may be rejected by the Board. [As amended Acts 1937, 45th Leg., S.B. # 343, § 4.]

Amendment of 1937, effective April 14, 1937.

Sec. 8. (a) If the Board shall determine that a satisfactory bid has been offered for said oil and gas, it will make an award to the bidder offering the highest price therefor, and a lease shall be executed by the Commissioner of the General Land Office, a duplicate copy of such lease to be filed in the General Land Office.

(b) The primary term of the lease, as determined by the Board prior to the promulgation of the advertisement, shall in no case exceed five (5) years, and each lease shall provide that the lease shall terminate at the expiration of its primary term, and shall provide that if oil and/or gas is being produced in paying quantities from the premises before termination of the primary term, said lease shall continue in force and effect as long as such oil and/or gas is being so produced. The lease shall

include such additional provisions and regulations, not inconsistent with the provisions of this Act, as the Board may prescribe to preserve the interests of the State and safeguard the University funds.

(c) Whenever in the discretion of the Board it is to the best interest of the University and its Permanent Fund that production from any lease for a limited period of time should be prorated, reduced, the said Board is hereby given authority to execute the necessary contract or contracts with the lessee or lessees and their assignees to effectuate the same and to carry out the intention of this section. [As amended, Acts 1937, 45th Leg., S.B. # 343, § 5.]

Amendment of 1937, effective April 14, 1937.

Sec. 14. All surveys, files, records, copies of sale and lease contracts, and all other records pertaining to the sales and leases hereby authorized, shall be filed in the General Land Office and constitute archives thereof. Payments hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the State Treasurer for deposit to the credit of the Permanent University Fund all bonus and royalty payments, and who shall transmit to the State Treasurer for deposit to the credit of the Available University Fund all payments for delay in drilling, all filing, assignment and relinquishment fees and all other payments, except the one (1%) per cent special fee payment for defraying the expenses of auction sales as provided for in Section 5 hereof; and who shall transmit to the Comptroller of the University of Texas the said special one (1%) per cent fee payment, which shall be disbursed by the said Comptroller for said purpose, after approval thereof by the Board. [As amended Acts 1937, 45th Leg., S.B. # 343, § 6.]

Amendment of 1937, effective April 14, 1937.

Sec. 18. The Board shall adopt such forms and contracts and shall promulgate such rules and regulations not inconsistent with the terms of this Act, as in its judgment will best effectuate the purpose of this Act and best protect the University, its lands and the income therefrom. A majority of the Board shall have the power to act for the Board. The Board shall have the right to withdraw any lands advertised for lease prior to the hour fixed for receiving bids. Any and all, or parts of, laws in conflict with this Act are hereby repealed. [As amended Acts 1937, 45th Leg., S.B. # 343, § 7.]

Amendment of 1937, effective April 14, 1937.

CHAPTER TWO—AGRICULTURAL AND MECHANICAL COLLEGE

Art.

2613a—3. Lease of lands for oil, gas or

other mineral development authorized [New].

Art. 2613a—3. Lease of lands for oil, gas or other mineral development authorized

Section 1. That the Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to lease for oil and/or gas and/or sulphur and/or other mineral development to the highest bidder at public auction all lands used for experimental stations and all other lands under its exclusive control or any part thereof now owned by the State of Texas and acquired for the use of the Agricultural and Mechanical College of Texas and its divi-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

sions or that may hereafter be acquired for the use of the Agricultural and Mechanical College of Texas and its divisions. Any amounts received under and by virtue of this Act shall be deposited in the State Treasury to the credit of a special fund to be known as the "Agricultural and Mechanical College of Texas Special Mineral Fund," and any funds placed therein shall be appropriated by the Legislature of the State of Texas in its regular biennial appropriation bill exclusively for the Agricultural and Mechanical College of Texas and its branches or divisions; provided, the amounts received as bonuses and rentals between the effective date of this Act and August 31, 1937, are hereby appropriated to the Agricultural and Mechanical College of Texas to be expended as may be deemed proper by the Board of Directors of said College; provided, however, that the amounts received prior to August 31, 1937, as bonus money and rental money from leases of the land embraced in Experimental Station No. 4, located in Senatorial District No. 4, may be expended by the Board for the necessary improvements and maintenance of Experimental Station No. 4, and the Board is authorized to expend whatever amount they may deem necessary for improvements, livestock and maintenance of the Piney Woods Livestock Experimental Station in Senatorial District No. 4; provided, however, that any royalties received shall be placed in the special fund provided. All moneys realized from royalties accruing under the terms of this Act shall be used exclusively for the purpose of creating a permanent improvement fund, the income from which shall be expended under the direction of the Board of Directors of the Agricultural and Mechanical College of Texas in erecting permanent improvements for the College and its branches and divisions.

Division of lands into lots or blocks

Sec. 2. The Board is hereby authorized to cause said lands to be surveyed or subdivided into such tracts, lots or blocks as will, in their judgment, be most conducive and convenient to facilitate the advantageous sale of lease for oil, gas, sulphur, and/or other minerals thereof and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board is further authorized to obtain authentic abstracts of title to all of said lands as they may deem necessary from time to time and to take such steps as may be necessary to perfect a merchantable title to said lands in the State of Texas.

Advertising for lease

Sec. 3. Whenever, in the opinion of the Board, there shall be such a demand for the purchase of oil, gas, sulphur or other mineral leases on any tract or part of any tract of land as will reasonably insure an advantageous sale, the Board shall place such oil, gas, sulphur or other mineral leases on said land on the market in such tract or tracts, or any part thereof, as the Board may designate. It shall cause to be advertised a brief description of the land from which the oil, gas, sulphur or other minerals is proposed to be leased. Such advertisement shall be made by inserting in two or more papers of general circulation in this State and in addition the Board may, in its discretion, cause said advertisement to be placed in an Oil & Gas Journal published in and out of the State, and also mail copies of such proposals to the county judge of the county where said lands are located, and mail copies of such proposals to such other persons as the Board might think would be interested therein.

The Board may sell the lease or leases to the highest bidder at public auction at the Agricultural and Mechanical College of Texas, College Station, Texas, at any hour between 10:00 a. m. and 5:00 p. m. The Board

shall have the right to reject all bids. However, the highest bidder shall pay to the Board on the day of the sale twenty-five per cent (25%) of the bonus bid and the balance of the bid shall be paid to the Board within twenty-four (24) hours after being notified that the bid has been accepted. Payments shall be paid in cash, certified check or cashier's check, as the Board may direct; provided, the failure to pay the balance of the amount bid will forfeit to the Board the twenty-five per cent (25%) paid.

Bids for leases

Sec. 4. A separate bid shall be made for each tract or subdivision thereof. No bids shall be accepted which offer a royalty of less than one-eighth (1/8th) of the gross production of oil, gas, sulphur and other minerals in the land bid upon and this minimum royalty may be increased at the discretion of the Board. Every bid shall carry the obligation to pay an amount not less than One Dollar (\$1.00) per acre for delay in drilling or development; such amount to be fixed by the Board in advance of the advertisement and shall be paid every year for five (5) years unless in the meantime production in paying quantities is had upon the land or said land is re-leased by the lessee.

Regulations on lease

Sec. 5. If in the opinion of the Board any one of the bidders shall have offered a reasonable and proper price for any tract and not less than the price fixed by the Board, the lands advertised may be leased for oil, gas, sulphur and/or other mineral purposes under the terms of this Act, and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. In the event no bid is accepted by the Board at public auction any subsequent procedure for the sale of oil and/or gas and/or sulphur and/or other mineral leases shall be in the manner above provided. Provided that no lease for oil, gas, sulphur, and/or other minerals shall be made by said Board which will permit the drilling or mining for oil and/or gas and/or sulphur and/or other minerals within less than three hundred (300) feet of any building on said land, without the consent of the Board, and further providing that in making any lease on any experimental station and/or farm the lease shall provide that the operations for oil, and gas and other minerals shall not in any way interfere with the land as an experimental station and shall not cause the abandonment of said property or its use for experimental farm purposes, and the lessee operating said property shall drill and carry on his operations in such a way as not to cause the abandonment of said property for experimental farm purposes and any such leased property shall be subject to the use by the State of Texas for all experimental purposes and said Board shall continue to operate said experimental station.

Acceptance of lease; termination

Sec. 6. If the Board shall determine that a satisfactory bid has been received for said oil, gas, sulphur and/or other mineral lands it shall accept the same and reject all other bids and file said accepted bid in the General Land Office. Whenever the royalties shall amount to as much as the yearly payments as fixed by the Board, the yearly payments may be discontinued. If before the expiration of five years oil and/or gas and/or sulphur and/or other minerals shall not have been produced in paying quantities, the lease shall terminate, unless extended as hereinafter provided.

Award of lease to highest bidder; termination; extension

Sec. 7. (a) If the Board shall determine that a satisfactory bid has been received for said oil, gas, sulphur and/or other minerals, it will

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

make an award to the bidder offering the highest price therefor, and a lease shall be filed in the General Land Office.

(b) The exploratory term of the lease as determined by the Board prior to the promulgation of the advertisement shall in no case exceed five (5) years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of members of the Board such lease may be extended for a period of three (3) years, which lease may be extended where the Board finds that there is likelihood of oil, gas, sulphur and/or other minerals being discovered thereon by lessees, and that such lessees have proceeded with diligence to protect the interest of the State; provided, however, that if oil, gas, sulphur and/or other minerals are being produced in paying quantities from the premises, said lease shall continue in force and effect as long as such oil, gas, sulphur and/or other minerals are being so produced. Provided, that no extension hereunder may be made by the Board until the last thirty (30) days of the original term of the lease. The lease shall include such additional provisions and regulations as the Board may prescribe to preserve the interest of the State, but not inconsistent with the provisions of this Act.

(c) Whenever in the discretion of said Board, it is deemed for the best interest of the State to extend a lease issued by said Board, the Board is hereby granted and given full authority by unanimous vote to extend said lease for a period not to exceed three (3) years, upon the condition that the lessee shall continue to pay yearly rental as provided in the lease and such additional terms as the Board may see fit and proper to demand. The Board is hereby given full authority to extend such lease and execute an extension agreement therefor.

(d) Whenever in the discretion of the Board, it is for the best interest of the State to prorate, or reduce production of any land, said Board shall have and is hereby given authority to execute the necessary contract to carry out such purpose.

Rentals under lease

Sec. 8. If, during the term of any lease issued under the provisions of this Act, the lessee shall be engaged in actual drilling operations for the discovery of oil, gas, sulphur and/or other minerals on land covered by any such lease, no rentals shall be payable as to the tract on which such operations are being conducted so long as such operations are proceeding in good faith; and in the event oil, gas, sulphur, and/or other minerals are discovered in paying quantities on any tract of land covered by any such lease, then the lease as to such tract shall remain in force so long as oil, gas, sulphur and/or other minerals are produced in paying quantities from such tract. In the event of the discovery of oil, gas, sulphur and/or other minerals on any tract covered by a lease issued hereunder or on any land adjoining same, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by such lease to properly develop the same, to the extent that a reasonably prudent operator would do under the same and similar circumstances.

Rights of purchaser; assignments

Sec. 9. Title to all rights purchased may be held by the owners so long as the area produces oil, gas, sulphur and/or other minerals in paying quantities. All rights purchased may be assigned. All assignments shall be filed in the General Land Office within one hundred days from the date of the first acknowledgment thereof, accompanied by ten cents (10¢) per acre for each acre assigned and if not so filed and payment made, the assignment shall not be effective. All rights to any whole tract or to any assigned portion thereof may be relinquished to the State

at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and filed with the Chairman of the Board accompanied with One Dollar (\$1.00) for each area assigned, but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon. The Board shall authorize the laying of pipe line, telephone line, and the opening of such roads as may be deemed reasonably necessary for and incident to the purpose of this Act.

Royalty payable to General Land Office

Sec. 10. If oil or other minerals are developed on any of the lands leased by the Board, the royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, on or before the 20th day of each succeeding month for the preceding month during the life of the rights purchased, and be set aside in the State Treasury as specified in Section 1 hereof, and said funds may be used as therein provided. Said royalty paid to the General Land Office as above stipulated shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur and/or other minerals produced and saved since the last report and the amount of oil, gas, sulphur and/or other minerals produced and sold off the premises and the market value of the oil, gas, sulphur and/or other minerals together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipe line receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipe lines, tanks, vats, or pool and gas lines or gas storage. The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, pipe lines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil, gas, sulphur and/or other minerals shall at all times be subject to inspection and examination of any member of the Board of Directors of the Agricultural and Mechanical College of Texas or any duly authorized representative of said Board. The Commissioner of the General Land Office shall tender to the Board of Directors of the Agricultural and Mechanical College of Texas at the close of each month a report of all receipts from the lease or sale of oil, gas, sulphur and/or other minerals turned into the special fund in the State Treasury.

Protection of contiguous or adjoining lands

Sec. 11. In every case where the area in which oil, gas, sulphur and/or other minerals sold shall be contiguous or adjacent to lands which are not lands belonging to and held by the Agricultural and Mechanical College of Texas, the acceptance of the bid and the sale made thereby shall constitute an obligation on the owner thereof to adequately protect the land leased from drainage from said adjacent lands to the extent that a reasonably prudent operator would do under the same and similar circumstances. In cases where the area in which the oil, gas, sulphur and/or other minerals are sold is contiguous to other lands belonging to and held by the Agricultural and Mechanical College of Texas which have been leased or sold at a lesser royalty, the owner shall likewise protect said land from drainage from the lands so leased or sold for a lesser royalty. Upon failure to protect the land from drainage as herein provided the sale and all rights thereunder may be forfeited by the Board in the manner elsewhere provided for forfeitures.

Forfeitures

Sec. 12. If the owner of the rights acquired under this Act shall fail or refuse to make the payments of any sum due thereon, either as

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

rental or royalty on the production, within thirty (30) days after the same shall become due, or if such owner or his authorized agent should make any false return or false report concerning production, royalty or drilling or mining or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority access to the records and other data pertaining to the operations under this Act, or if such owner, or his authorized agent, should fail or refuse to give correct information to the proper authorities, or fail or refuse to furnish the log of any well within thirty days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Board by an order entered upon the minutes of the Board reciting the facts constituting the default, and declaring the forfeiture. The Board may, if it so desires, have suit instituted for forfeiture through the Attorney General of the State. Upon proper showing by the forfeiting owner, within thirty days after the declaration of forfeiture, the lease may, at the discretion of the Board and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State by forfeiture shall not be the exclusive remedy but suit for damages or specific performance, or both, may be instituted. The State shall have a first lien upon oil, gas, sulphur and/or other minerals produced upon the leased area, and upon all rigs, tanks, vats, pipe lines, telephone lines, and machinery and appliances used in the production and handling of oil and/or gas and/or sulphur and/or other minerals produced thereon, to secure any amount due from the owner of the said lease.

Records filed in General Land Office

Sec. 13. All surveys, files, records, copies of sale and lease contracts and all other records pertaining to the sales and leases hereby authorized shall be filed in the General Land Office and constitute archives thereof. Payment hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the State Treasurer all royalties, lease fees, rentals for delay in drilling or mining and all other payments, including all filing assignments and relinquishment fees hereunder, to be deposited in the special fund in the State Treasury to the credit of the Agricultural and Mechanical College of Texas as above provided.

Adoption of forms and regulations

Sec. 14. The Board shall adopt proper forms and regulations, rules and contracts as will in its best judgment protect the income from lands leased hereunder. A majority of the Board shall have power to act in all cases, except where otherwise herein provided. The Board may reject any and all bids and shall have the further right to withdraw any lands advertised for lease.

Comptroller's warrants for expenses

Sec. 15. The expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer, and for that purpose the sum of Two Thousand Dollars (\$2000) or so much thereof as may be necessary is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated until September 1, 1937, after which time expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer against the income from the special fund accumulated from leases, rentals, royalties, and other payments.

Partial invalidity

Sec. 16. If any section, subsection, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not affect the remaining portions of this Act. [Acts 1937, 45th Leg., H.B. # 150.]

Effective April 14, 1937.

Section 17 of this Act declared an emergency making the Act effective on and after its passage.

Title of Act:

An Act authorizing the Board of Directors of the Agricultural and Mechanical College of Texas to lease at public auction for oil, gas, sulphur, and/or other mineral development all lands used as experimental stations and all other lands under its exclusive control; providing for the "Agricultural and Mechanical College of Texas Special Mineral Fund" and the manner it is to be administered; providing for a permanent fund and the expenditure of the income from same; prescribing the mode and manner of said oil, gas, sulphur and other mineral leases on said land; appropriating certain moneys received between the effective date of the Act and August 31, 1937, to the use of the Agricultural and Mechanical College of Texas, its branches and divisions, with special provision for that part of the money collected from leases of land embraced in experimental Station No. 4, to be expended on

said station, and the amount necessary for the use of the Piney Woods Livestock Experimental Station in Senatorial District No. 4; authorizing necessary subdivision, procuring of abstracts, and advertisement with respect to sale of said leases; providing penalty for delay in drilling; fixing certain regulations with regard to leasing; providing drilling operations shall not interfere with the operations of the Agricultural and Mechanical College as an experimental station and/or farm; providing for the filing of leases and records in the State Land Office; providing for extension of leases; providing for assignment of leases and relinquishment to the State; providing the time and manner of payment of royalties; providing for reports to the Board of Directors; providing for forfeiture of lease; authorizing a majority of the Board to act; making an appropriation to defray the expenses of said Board; providing if any part of the Act shall be declared unconstitutional it shall not affect the validity of the remainder, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #150.]

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION**1. STATE SUPERINTENDENT****Art. 2663b—1. Teaching Constitution in school**

Sec. 4. No person hereafter shall be certified to teach in the public schools of the State of Texas until he has secured credit for the course in both Federal and State Constitutions of the grade of instruction upon which he is applying for the certificate, that is either of the subcollege or of the college work; or in lieu thereof shall have passed an examination set by the State Superintendent of Public Instruction on the Constitution of the United States and Texas; provided, that any person who has to his credit in any standard college or university of Texas as much as six (6) hours of American Government shall be deemed to have met the requirements of this Section. Provided further, that after September 1, 1937, no student shall be certified for graduation from any tax-supported State educational institution with the award of a college degree unless such student shall have completed theretofore in a standard college or university at least six (6) hours for credit in the governments of the State of Texas or of the United States of America, or the equivalent in both. [As amended Acts 1937, 45th Leg., H.B. # 291, § 1.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[4. PHYSICAL RESTORATION OF CRIPPLED CHILDREN]

[Art. 2675j. Rehabilitation Division of State Department of Education created]

[Powers of Rehabilitation Division; compensation for treatment; artificial appliances; rules and regulations]

Sec. 3. The Rehabilitation Division of the State Department of Education is empowered to take census, make surveys, and establish permanent records of crippled children; to cooperate with the Department of Education in providing special equipment and instruction in the education of crippled children, to procure medical and surgical service for crippled children; provided that only physicians legally qualified to practice medicine and surgery in Texas be employed for purposes of diagnosis and treatment; provided further, however, that for crippled children having defects of the oral cavity, legally qualified dentists may be employed for purposes of diagnosis and treatment; that not more than the customary minimum fees be paid for such services, and that physicians, dentists, or surgeons so employed shall be approved by the State Board of Health as qualified to render such service; to select and designate hospitals for the care of crippled children contemplated by this Act providing that such hospital must be approved by the State Board of Control, and to take such other steps as may be necessary in order to accomplish the purposes of this Act.

At the discretion of the State Department of Education, transportation, appliances, braces, and material necessary in the proper handling of crippled children may be in part or entirely provided.

The Rehabilitation Division of the State Department of Education is directed to provide in Rules and Regulations, the necessary details for the conduct of this work, in accordance with the purposes of this Act, which shall permit as far as possible, the free choice of patients in their selection of physicians and hospitals, and shall arrange with hospitals, brace departments, and other services provided for crippled children's work, compensation for such services, provided that such fees or charges shall not exceed the average minimum charges for the same services rendered to average ward patients in the hospitals approved for purpose of this Act, such Rules and Regulations shall be approved by the State Department of Education. [As amended Acts 1935, 44th Leg., p. 328, ch. 121, § 1; Acts 1937, 45th Leg., H.B. # 38, § 1.]

Amendment of 1937, effective April 26, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER ELEVEN—COUNTY SCHOOLS

1. TRUSTEES

Art.
2687—b. Meetings in counties of 130,000 to 133,000 population [New].

2. SUPERINTENDENT

2700d—7. County superintendent's office and traveling expenses in counties of enumerated population [New].

Art.

2700d—8. Office and traveling expenses of Superintendent and assistants; counties with 14,540–14,580 population [New].

2700d—9. County superintendent's office and traveling expenses in counties of 13,125 to 13,145 [New].

2700d—10. Office and traveling expenses in counties 30,708 to 30,750 [New].

Art.	Art.
2700d—11. Office and traveling expenses in counties of 49,000 to 49,025 [New].	2700d—16. Office and traveling expenses of county superintendents and assistants in counties of enumerated population [New].
2700d—12. Office and traveling expenses in counties of 29,400 to 29,450 and other counties [New].	2700d—17. Salary and expenses of superintendents in counties of enumerated population [New].
2700d—13. Office and traveling expenses in counties of 32,400 to 32,500 [New].	2700d—18. Salary and expenses of Superintendents in counties of enumerated population [New].
2700d—14. Office and traveling expenses in counties of 27,441 to 27,450 and other counties [New].	2700d—19. County Superintendent; expenses; counties of population [New].
2700d—15. Office and traveling expenses in counties of 10,050 to 10,075 and certain other counties [New].	

1. TRUSTEES

[Art. 2683a. Appropriation and use of donations]

Teachers retirement system, see art. 2922—1 of this title.

Art. 2687. Meetings

The County School Trustees shall hold meetings once each quarter, on the first Monday in August, February, May, and November, or as soon thereafter as practicable, and at other times when called by the President of the County School Trustees or at the instance of any two (2) members of the County School Trustees and the County Superintendent, the meeting place to be at the county seat and in the office of the County Superintendent. Each Trustee shall be paid Three Dollars (\$3) per day, but not to exceed Thirty-six Dollars (\$36) in any one year, for the time spent in attending such meetings, out of the State and County Available School Fund by warrants drawn on order of the County Superintendent and signed by the President of the County School Trustees, after approval of the account, properly sworn to by the President of the County School Trustees.

In all counties in Texas having a population of not less than forty-three thousand, one hundred and eighty (43,180) and not more than forty-four thousand, one hundred (44,100) population according to the last preceding Federal Census, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practical, or at such other times when called by the President of the Board of County School Trustees, or at the instance of any three members of said Board, and the County Superintendent, the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each county school trustee shall be paid Five Dollars (\$5) per day for the time spent in attending such meetings not to exceed twenty-four (24) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

(a) In all counties in Texas having a population of not less than forty-eight thousand, five hundred and sixty (48,560) and not more than forty-eight thousand, six hundred and sixty-five (48,665), according to the last preceding Federal Census;

(b) in counties containing a population of not less than thirty thousand, and twenty (30,020) and not more than thirty thousand, one hundred and twenty-five (30,125), according to the last preceding Federal Census;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) in counties containing a population of not less than ten thousand, three hundred and seventy (10,370) and not more than ten thousand, four hundred and seventy-five (10,475), according to the last preceding Federal Census;

(d) in counties having a population of not less than fourteen thousand, five hundred and eighty (14,580) and not over fourteen thousand, five hundred and ninety (14,590), according to the last preceding United States Census, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Five Dollars (\$5) per day for the time spent in attending such meetings not to exceed twenty-four (24) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act. [As amended Acts 1937, 45th Leg., H.B. # 55, § 1; Acts 1937, 45th Leg., H.B. # 606, § 1; Acts 1937, 45th Leg., H.B. # 1049, § 1.]

Amendment of 1937, H.B. #606, effective April 6, 1937.

House Bills #55, 1049, effective 90 days after May 22, 1937, date of adjournment.

Section 2 of Acts 1937, H. B. #55, read as follows: "The provisions of this Act shall be cumulative of all existing laws on the subject, and shall, in nowise, repeal any special or local laws on the subject of this Act."

Section 2 of Acts 1937, 45th Leg., H.B. #606, and section 2 of Acts 1937, 45th

Leg., H.B. # 1049, provided that the provisions of this Act shall be cumulative of all same laws on the subject of this Act not in conflict herewith and wherein otherwise provided herein, such General Laws shall apply; but in case of conflict the provisions of this Act shall control thereby and be effective.

Section 3 of the amendatory acts of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 2687—b. Meetings in counties of 130,000 to 133,000 population

In all counties in Texas having a population of not less than one hundred and thirty thousand (130,000) and not more than one hundred and thirty-three thousand (133,000), according to the last preceding Federal Census, the County School Trustees shall hold meetings once each month on the first Monday of each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the County Courthouse and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Six Dollars (\$6) per day for the time spent in attending said meetings, not exceeding twenty-four (24) days in any one year. Such compensation shall be paid out of the school administration fund of said county by warrants drawn against such fund as the law now provides, after the approval of this Act. [Acts 1937, 45th Leg., 1st C.S., H.B. #63, § 1.]

Effective July 15, 1937.

Section 2 provided that:

"The provisions of this Act shall be cumulative of all laws on the subject of this Act not in conflict herewith, and where not otherwise provided herein, such

laws shall apply; but in case of conflict, the provisions of this Act shall control and be effective."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

2. SUPERINTENDENT

Art. 2700d—7. County superintendent's office and travelling expenses in counties of enumerated population

Section 1. In counties having a population of not less than twenty-four thousand and sixty (24,060) and not more than twenty-four thousand and seventy-five (24,075), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-a. In counties having a population of not less than thirty thousand, two hundred eighty-eight (30,288), nor more than thirty thousand, two hundred ninety-two (30,292), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-b. In counties having a population of not less than twelve thousand, four hundred sixty-nine (12,469), nor more than twelve thousand, four hundred seventy-three (12,473), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-c. In counties having a population of not less than twenty-seven thousand, eight hundred (27,800), nor more than twenty-seven thousand, eight hundred four (27,804), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-d. In counties having a population of not less than eleven thousand, nine hundred ninety-six (11,996), nor more than twelve thousand (12,000), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 1-e. In counties having a population of not less than twelve thousand, five hundred twenty-two (12,522), nor more than twelve thousand, five hundred twenty-six (12,526), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-f. In counties having a population of not less than seventeen thousand, sixty-two (17,062), nor more than seventeen thousand, sixty-six (17,066), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-g. In counties having a population of not less than eleven thousand, four hundred forty-six (11,446), nor more than eleven thousand, four hundred fifty (11,450), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-h. In counties having a population of not less than fourteen thousand, five hundred eighty-six (14,586), nor more than fourteen thousand, five hundred ninety (14,590), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditure for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-i. In counties having a population of not less than twenty-two thousand, six hundred forty (22,640), nor more than twenty-two thousand, six hundred forty-four (22,644), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-j. In counties having a population of not less than thirteen thousand, nine hundred thirty-four (13,934), nor more than thirteen thousand, nine hundred thirty-eight (13,938) according to the last preceding

Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-k. In counties having a population of not less than twenty-eight thousand, six hundred twenty-five (28,625), nor more than twenty-eight thousand, six hundred thirty (28,630), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-l. In counties having a population of not less than fifteen thousand, one hundred forty-seven (15,147), nor more than fifteen thousand, one hundred fifty-two (15,152), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 2. The provisions of this Act shall be cumulative of all General Laws on the subject and where not otherwise provided herein, such General Laws shall apply; but, in case of conflict, the provisions of this Act shall control and be effective. [Acts 1937, 45th Leg., H.B. # 56.]

Effective March 5, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office

and traveling expenses in certain counties according to the last preceding Federal Census; making this Act cumulative of all General Laws on the same subject, such General Laws to apply except in case of conflict when the provisions of this Act shall control, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 56.]

Art. 2700d—8. Office and traveling expenses of Superintendent and assistants; counties with 14,540–14,580 population

Section 1. In counties having a population of not less than fourteen thousand, five hundred and forty (14,540) and not more than fourteen thousand, five hundred and eighty (14,580), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Counties with 48,563—48,663 population

Sec. 1a. In counties having a population of not less than forty-eight thousand, five hundred sixty-three (48,563) and not more than forty-eight thousand, six hundred sixty-three (48,663), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of County Superintendent.

Counties with 10,371—10,471 population

Sec. 1b. In counties having a population of not less than ten thousand, three hundred seventy-one (10,371) and not more than ten thousand, four hundred seventy-one (10,471), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of County Superintendent.

Counties with 30,030—30,130 population

Sec. 1c. In counties having a population of not less than thirty thousand, thirty (30,030) and not more than thirty thousand, one hundred thirty (30,130), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of County Superintendent.

Counties with 10,028—10,128 population

Sec. 1d. In counties having a population of not less than ten thousand, twenty-eight (10,028) and not more than ten thousand, one hundred twenty-eight (10,128), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Counties with 16,003—16,010 population

Sec. 1e. In counties having a population of not less than sixteen thousand, three (16,003) and not more than sixteen thousand, ten (16,010), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office

and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent. [Acts 1937, 45th Leg, H. B. # 162.]

Effective March 23, 1937.

Section 2 repeals all conflicting laws and parts of laws; section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trus-

tees to the County Superintendents of Public Instruction and their assistants for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict therewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 162.]

Art. 2700d—9. County superintendent's office and traveling expenses in counties of 13,125 to 13,145.

In counties having a population of not less than thirteen thousand, one hundred and twenty-five (13,125) and not more than thirteen thousand, one hundred and forty-five (13,145), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of six hundred (\$600.00) dollars per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent. [Acts 1937, 45th Leg., H.B. # 450, § 1.]

Effective March 25, 1937.

Section 2 repeals all conflicting laws and parts of laws; section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trus-

tees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 450.]

Art. 2700d—10. Office and traveling expenses in counties 30,708 to 30,750

In counties having a population of not less than thirty thousand, seven hundred and eight (30,708) and not more than thirty thousand, seven hundred and fifty (30,750), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Five Hundred Dollars (\$500) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent. [Acts 1937, 45th Leg., H.B. # 655, § 1.]

Effective March 31, 1937.

Section 2 repeals all conflicting laws and parts of laws. Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special in conflict therewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 655.]

Art. 2700d—11. Office and traveling expenses in counties of 49,000 to 49,025

In all counties containing a population of not less than forty-nine thousand (49,000), nor more than forty-nine thousand and twenty-five (49,025), according to the last preceding Federal Census, the County Superintendents shall receive from the available school funds of their respective counties, for office and traveling expenses, a sum not to exceed Six Hundred Dollars (\$600) per annum. [Acts 1937, 45th Leg., H.B. # 317, § 1.]

Effective April 9, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act increasing the allowance for office and traveling expenses for County

Superintendents in all counties containing a population, according to the last preceding Federal Census, of not less than forty-nine thousand (49,000), nor more than forty-nine thousand and twenty-five (49,025), and declaring an emergency. [Acts 1937, 45th Leg., H.B. #317.]

Art. 2700d—12. Office and traveling expenses in counties of 29,400 to 29,450 and other counties

Section 1. In counties having a population of not less than twenty-nine thousand, four hundred (29,400) and not more than twenty-nine thousand, four hundred and fifty (29,450), in counties having a population of not less than thirteen thousand, six hundred (13,600) and not more than thirteen thousand, seven hundred (13,700), and counties having a population of not less than thirty four thousand, six hundred and forty (34,640) and not more than thirty four thousand, six hundred and sixty (34,660), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-a. In counties having a population of not less than thirteen thousand, six hundred and thirty-seven (13,637) and not more than thirteen thousand, six hundred and forty (13,640) according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent; and provided further that the provisions of this Act shall apply to counties having a population of not less than seventeen thousand, five hundred and fifty-five (17,555) and not more than seventeen thousand, five hundred and sixty (17,560) according to the last preceding Federal Census, and that the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount

allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent. [Acts 1937, 45th Leg., H.B. # 451.]

Effective April 6, 1937.

Section 2 of this Act repeals all conflicting laws and parts of laws and section 3 declared an emergency making the act effective on and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trus-

tees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #451.]

Art. 2700d—13. Office and traveling expenses in counties of 32,400 to 32,500

In counties having a population of not less than thirty-two thousand, four hundred (32,400) and not more than thirty-two thousand, five hundred (32,500), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of One Thousand Dollars (\$1,000) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent. [Acts 1937, 46th Leg., H.B. # 598, § 1.]

Effective April 9, 1937.

Section 2 of this Act repeals all conflicting laws and parts of laws and section 3 declares an emergency making the act effective on and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trus-

tees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict therewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #598.]

Art. 2700d—14. Office and traveling expenses in counties of 27,441 to 27,450 and other counties

In counties having a population of not less than twenty-seven thousand, four hundred and forty-one (27,441) and not more than twenty-seven thousand, four hundred and fifty (27,450), and in counties having a population of not less than twenty thousand and forty-eight (20,048) and not more than twenty thousand and fifty-five (20,055), and in counties having a population of not less than twenty-five thousand, three hundred and ninety-four (25,394) and not more than twenty-five thousand, four hundred (25,400), and in counties having a population of not less than ten thousand, nine hundred seventy-five (10,975) and not more than ten thousand, nine hundred and eighty-five (10,985), according to the last preceding Federal Census, and the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; providing that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent. [Acts 1937, 45th Leg., H.B. # 721, § 1.]

Effective April 9, 1937.

Section 2 of this Act repeals all conflicting laws and parts of laws and sec-

tion 3 declares an emergency making the act effective on and after its passage.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties

according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict therewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #721.]

Art. 2700d—15. Office and traveling expenses in counties of 10,050 to 10,075 and certain other counties

Section 1. In counties having a population of not less than ten thousand and fifty (10,050) and not more than ten thousand and seventy-five (10,075), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-a. In counties having a population of not less than thirty-two thousand, three hundred and twelve (32,312) and not more than thirty-two thousand, three hundred and twenty (32,320), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions that they deem necessary for office and traveling expenses of County Superintendent of Public Instruction, provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of office of the County Superintendent.

Sec. 1-b. In counties having a population of not more than twenty-four thousand, one hundred and eighty (24,180) and not less than twenty-four thousand and forty (24,040), and in counties having a population of not more than forty-six thousand, two hundred and eighty (46,280) and not less than forty-six thousand, one hundred and eighty (46,180), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions that they deem necessary for office and traveling expenses of County Superintendent of Public Instruction, provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of office of the County Superintendent. [Acts 1937, 45th Leg., H.B. # 930.]

Effective April 23, 1937.

Section 2 of this Act repeals all conflicting laws and parts of laws and section 3 declares an emergency making the act effective on and after its passage.

tees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict therewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #930.]

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trus-

Art. 2700d—16. Office and traveling expenses of county superintendents and assistants in counties of enumerated population

In counties with a population of not less than sixteen thousand, six hundred (16,600) and not more than seventeen thousand, sixty (17,060); and in counties having a population of not less than thirty-eight thousand, seven hundred and sixty (38,760) inhabitants and not more than thirty-eight thousand, seven hundred and eighty (38,780)

inhabitants; and in counties having a population of not less than twenty-six thousand, three hundred and eighty-two (26,382) and not more than twenty-six thousand, four hundred (26,400) inhabitants; and in counties having a population of not less than twenty-three thousand, six hundred and sixty-nine (23,669) nor more than twenty-three thousand, seven hundred and seventy-five (23,775) inhabitants; and in counties having a population of not less than nineteen thousand, one hundred and seventy-three (19,173) nor more than nineteen thousand, one hundred and eighty-three (19,183) inhabitants; and in counties having a population of not less than seventeen thousand, five hundred and sixty-five (17,565) nor more than seventeen thousand, five hundred and eighty-five (17,585) inhabitants; and in counties having a population of not less than forty-eight thousand, five hundred and eighteen (48,518) nor more than forty-eight thousand, five hundred and thirty-eight (48,538) inhabitants; and in counties having a population of not less than fifty-three thousand, nine hundred and twenty-five (53,925) nor more than fifty-three thousand, nine hundred and forty-seven (53,947) inhabitants; and in counties having a population of not less than thirty-three thousand, three hundred and seven (33,307) nor more than thirty-three thousand, three hundred and twenty-eight (33,328) inhabitants; and in counties having a population of not less than thirty-one thousand, three hundred and ninety-five (31,395) nor more than thirty-one thousand, four hundred (31,400) inhabitants; and in counties having a population of not less than fourteen thousand, nine hundred and ten (14,910) nor more than fourteen thousand, nine hundred and seventeen (14,917) inhabitants; and in counties having a population of not less than eight thousand, six hundred (8,600) nor more than eight thousand, six hundred and ten (8,610) inhabitants; and in counties having a population of not less than five thousand, six hundred and sixty-five (5,665) nor more than five thousand, six hundred and seventy (5,670) inhabitants; and in counties having a population of not less than twelve thousand, one hundred and eighty-five (12,185) nor more than twelve thousand, one hundred and ninety (12,190) inhabitants; and in counties having a population of not less than five thousand, five hundred and eighty-five (5,585) nor more than five thousand, five hundred and eighty-nine (5,589) inhabitants; and in counties having a population of not less than forty-one thousand, twenty (41,020) nor more than forty-one thousand, thirty (41,030) inhabitants; and in counties having a population of not less than forty-three thousand, thirty-five (43,035) nor more than forty-three thousand, forty (43,040) inhabitants; and in counties having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150) inhabitants; and in counties having a population of not less than nine thousand, twenty-five (9,025) nor more than nine thousand, fifty (9,050) inhabitants; and in counties having a population of not less than thirty-nine thousand, one hundred (39,100) and not more than thirty-nine thousand, one hundred and ten (39,110) inhabitants; and in counties having a population of not less than twelve thousand, three hundred and seventy (12,370) nor more than twelve thousand, three hundred and eighty (12,380) inhabitants; and in counties having a population of not less than thirteen thousand, five hundred and seventy (13,570) and not more than thirteen thousand, five hundred and eighty (13,580) inhabitants; and in counties having a population of not less than thirty-four thousand, one hundred and fifty-five (34,155) nor more than thirty-four thousand, one hundred and sixty (34,160) inhabitants; and in counties having a population of not less than twelve thousand, seven hundred and eighty-five (12,785) nor more than twelve thousand, seven hundred and ninety (12,790) inhabitants; and in counties having a population of not less than nineteen

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thousand, three hundred and twenty (19,320) nor more than nineteen thousand, three hundred and twenty-five (19,325) inhabitants; and in counties having a population of not less than fourteen thousand, one hundred and eighty (14,180) nor more than fourteen thousand, one hundred and eighty-five (14,185) inhabitants; and in counties having a population of not less than twenty-four thousand, two hundred and thirty (24,230) nor more than twenty-four thousand, two hundred and thirty-five (24,235) inhabitants; and in counties having a population of not less than six thousand, six hundred and ninety-five (6,695) nor more than six thousand, seven hundred (6,700) inhabitants; and in counties having a population of not less than sixteen thousand, five hundred and sixty (16,560) nor more than sixteen thousand, five hundred and sixty-five (16,565) inhabitants; and in counties having a population of not less than five thousand, two hundred and fifty (5,250) nor more than five thousand, two hundred and fifty-five (5,255) inhabitants; and in counties having a population of not less than sixteen thousand, six hundred and sixty-five (16,665) nor more than sixteen thousand, six hundred and seventy (16,670) inhabitants; and in counties having a population of not less than twelve thousand, three hundred and sixty (12,360) nor more than twelve thousand, four hundred and twenty (12,420) inhabitants; and in counties having a population of not less than thirteen thousand, five hundred and sixty (13,560) nor more than thirteen thousand, five hundred and eighty-five (13,585) inhabitants; and in counties having a population of not less than eight thousand, five hundred and ninety (8,590) nor more than eight thousand, eight hundred and ninety (8,890) inhabitants; and in counties having a population of not less than nine thousand, two hundred and ninety (9,290) and nor more than nine thousand, four hundred (9,400) inhabitants; and in counties having a population of not less than six thousand, eight hundred (6,800) and not more than six thousand, eight hundred and thirty (6,830) inhabitants; and in counties having a population of not less than seventeen thousand, four hundred and forty-five (17,445) and not more than seventeen thousand, four hundred and sixty-five (17,465) inhabitants; and in counties having a population of not less than eleven thousand, twenty-one (11,021) and not more than eleven thousand, fifty (11,050) inhabitants; and in counties having a population of not less than sixteen thousand, twenty (16,020) and not more than sixteen thousand, five hundred (16,500) inhabitants according to the last Federal Census in each instance, the County Boards of Trustees may make such provisions as they deem necessary for office and/or traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for such necessary office and/or traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount of such expenses so allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent of Public Instruction. [Acts 1937, 45th Leg., H.B. # 560, § 1.]

Effective May 28, 1937.

Section 2 repeals all conflicting laws or parts of laws, general or special. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the maximum amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and/or traveling expenses in coun-

ties with a population of not less than sixteen thousand, six hundred (16,600) and not more than seventeen thousand, sixty (17,060); and in counties having a population of not less than thirty-eight thousand, seven hundred and sixty (38,760) inhabitants and not more than thirty-eight thousand, seven hundred and eighty (38,780) inhabitants; and in counties having a population of not less than twenty-six thousand, three hundred and eighty-two (26,382) and not more than twenty-six thousand, four hundred (26,400) inhab-

itants; and in counties having a population of not less than twenty-three thousand, six hundred and sixty-nine (23,669) nor more than twenty-three thousand, seven hundred and seventy-five (23,775) inhabitants; and in counties having a population of not less than nineteen thousand, one hundred and seventy-three (19,173) nor more than nineteen thousand, one hundred and eighty-three (19,183) inhabitants; and in counties having a population of not less than seventeen thousand, five hundred and sixty-five (17,565) nor more than seventeen thousand, five hundred and eighty-five (17,585) inhabitants; and in counties having a population of not less than forty-eight thousand, five hundred and eighteen (48,518) nor more than forty-eight thousand, five hundred and thirty-eight (48,538) inhabitants; and in counties having a population of not less than fifty-three thousand, nine hundred and twenty-five (53,925) nor more than fifty-three thousand, nine hundred and forty-seven (53,947) inhabitants; and in counties having a population of not less than thirty-three thousand, three hundred and seven (33,307) nor more than thirty-three thousand, three hundred and twenty-eight (33,328) inhabitants; and in counties having a population of not less than thirty-one thousand, three hundred and ninety-five (31,395) nor more than thirty-one thousand, four hundred (31,400) inhabitants; and in counties having a population of not less than fourteen thousand, nine hundred and ten (14,910) nor more than fourteen thousand, nine hundred and seventeen (14,917) inhabitants; and in counties having a population of not less than eight thousand, six hundred (8,600) nor more than eight thousand, six hundred and ten (8,610) inhabitants; and in counties having a population of not less than five thousand, six hundred and sixty-five (5,665) nor more than five thousand, six hundred and seventy (5,670) inhabitants; and in counties having a population of not less than twelve thousand, one hundred and eighty-five (12,185) nor more than twelve thousand, one hundred and ninety (12,190) inhabitants; and in counties having a population of not less than five thousand, five hundred and eighty-five (5,585) nor more than five thousand, five hundred and eighty-nine (5,589) inhabitants; and in counties having a population of not less than forty-one thousand, twenty (41,020) nor more than forty-one thousand, thirty (41,030) inhabitants; and in counties having a population of not less than forty-three thousand, thirty-five (43,035) nor more than forty-three thousand, forty (43,040) inhabitants; and in counties having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150) inhabitants; and in counties having a population of not less than nine thousand, twenty-five (9,025) nor more than nine thousand, fifty (9,050) inhabi-

tants; and in counties having a population of not less than thirty-nine thousand, one hundred (39,100) and not more than thirty-nine thousand, one hundred and ten (39,110) inhabitants; and in counties having a population of not less than twelve thousand, three hundred and seventy (12,370) nor more than twelve thousand, three hundred and eighty (12,380) inhabitants; and in counties having a population of not less than thirteen thousand, five hundred and seventy (13,570) and not more than thirteen thousand, five hundred and eighty (13,580) inhabitants; and in counties having a population of not less than thirty-four thousand, one hundred and fifty-five (34,155) nor more than thirty-four thousand, one hundred and sixty (34,160) inhabitants; and in counties having a population of not less than twelve thousand, seven hundred and eighty-five (12,785) nor more than twelve thousand, seven hundred and ninety (12,790) inhabitants; and in counties having a population of not less than nineteen thousand, three hundred and twenty (19,320) nor more than nineteen thousand, three hundred and twenty-five (19,325) inhabitants; and in counties having a population of not less than fourteen thousand, one hundred and eighty (14,180) nor more than fourteen thousand, one hundred and eighty-five (14,185) inhabitants; and in counties having a population of not less than twenty-four thousand, two hundred and thirty (24,230) nor more than twenty-four thousand, two hundred and thirty-five (24,235) inhabitants; and in counties having a population of not less than six thousand, six hundred and ninety-five (6,695) nor more than six thousand, seven hundred (6,700) inhabitants; and in counties having a population of not less than sixteen thousand, five hundred and sixty (16,560) nor more than sixteen thousand, five hundred and sixty-five (16,565) inhabitants; and in counties having a population of not less than five thousand, two hundred and fifty (5,250) nor more than five thousand, two hundred and fifty-five (5,255) inhabitants; and in counties having a population of not less than sixteen thousand, six hundred and sixty-five (16,665) nor more than sixteen thousand, six hundred and seventy (16,670) inhabitants; and in counties having a population of not less than twelve thousand, three hundred and sixty (12,360) nor more than twelve thousand, four hundred and twenty (12,420) inhabitants; and in counties having a population of not less than thirteen thousand, five hundred and sixty (13,560) nor more than thirteen thousand, five hundred and eighty-five (13,585) inhabitants; and in counties having a population of not less than eight thousand, five hundred and ninety (8,590) nor more than eight thousand, eight hundred and ninety (8,890) inhabitants; and in counties having a population of not less than nine thousand, two hundred and ninety (9,290) and not more than nine thousand, four hundred (9,400) inhabitants; and in coun-

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ties having a population of not less than six thousand, eight hundred (6,800) and not more than six thousand, eight hundred and thirty (6,830) inhabitants; and in counties having a population of not less than seventeen thousand, four hundred and forty-five (17,445) and not more than seventeen thousand, four hundred and sixty-five (17,465) inhabitants; and in counties having a population of not less than eleven thousand, twenty-one (11,021) and

not more than eleven thousand, fifty (11,050) inhabitants; and in counties having a population of not less than sixteen thousand, twenty (16,020) nor more than sixteen thousand, five hundred (16,500) inhabitants according to the last Federal Census in each instance; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #560.]

Art. 2700d—17. Salary and expenses of superintendents in counties of enumerated population

Section 1. In all counties of the State of Texas having a population of not less than thirty-two thousand eight hundred (32,800) and not more than thirty-two thousand eight hundred thirty (32,830), and in all counties having a population of not less than twenty-four thousand (24,000) and not more than twenty-four thousand sixty-three (24,063), and in all counties having a population of not less than thirty-seven thousand nine hundred (37,900) and not more than thirty-seven thousand nine hundred fifty (37,950), and in counties having a population of not less than twenty-seven thousand four hundred twenty-five (27,425) and not more than twenty-seven thousand four hundred sixty (27,460), and in counties having a population of not less than thirty-one thousand three hundred twenty-five (31,325) and not more than thirty-one thousand four hundred twenty-five (31,425), and in counties having a population of not less than forty-eight thousand five hundred (48,500) and not more than forty-eight thousand five hundred seventy-five (48,575), and in counties having a population of not less than eleven thousand four hundred (11,400) and not more than eleven thousand five hundred (11,500), and in counties having a population of not less than seventeen thousand seven hundred sixty (17,760) and not more than seventeen thousand seven hundred eighty (17,780), the salary of the County Superintendent of Public Instruction shall be not less than Two Thousand Seven Hundred Fifty (\$2,750.00) Dollars and not more than Three Thousand (\$3,000.00) Dollars per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the respective counties, and the County Board of Education for each of the counties coming within this bill shall, by order entered in its minutes, set the salary for each of their respective counties.

Allowance out of State and County Available School Fund; proration of allowance

Sec. 2. In making the annual per capita apportionment to the public free schools, the County Board of Education of each of the several counties mentioned in Section 1 of this Act shall also make an annual allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand (\$3,000.00) Dollars for the salary of the County Superintendent of Public Instruction and Six Hundred (\$600.00) Dollars for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners' Court of each of said counties may expend out of the General Fund of said counties not to exceed Three Hundred (\$300.00) Dollars per annum to defray the office expenses for stamps, stationery, telephone, and printing, incidental to and

necessary in the efficient administration of the schools of said counties respectively.

Salaries in counties having enumerated population

Sec. 3. In all counties of the state of Texas having a population of not less than sixteen thousand six hundred (16,600) according to the last United States Federal Census, the salary of the County Superintendent of Public Instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Eighteen Hundred (\$1800.00) Dollars per year nor more than Two Thousand Two Hundred and Fifty (\$2,250.00) Dollars per year, and said salary shall be exclusive of any and all traveling expenses allowed by law; and in all counties having a population of not less than seventeen thousand five hundred sixty-five (17,565) nor more than seventeen thousand six hundred (17,600) according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Nineteen Hundred (\$1900.00) Dollars per year nor more than Two Thousand Two Hundred and Fifty (\$2,250.00) Dollars per year, and said salary shall be exclusive of any and all traveling expenses allowed by law.

Time for payment of salaries and expenses

Sec. 4. The salary and traveling expenses provided for herein shall be paid monthly, upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the said County Superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expenses provided herein shall be paid by the County Treasurer on the order of the Commissioners' Court as said expenses may be incurred. [Acts 1937, 45th Leg., S.B. # 499.]

Effective June 9, 1937.

Section 5 of this act repeals all conflicting laws and parts of laws. Section 6 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act to provide for a more adequate and equitable salary of County Superin-

tendents of Public Instruction in all those counties of the State of Texas coming within the brackets and population figures herein named; providing for traveling expenses and/or office expenses for said officers; and repealing all laws and parts of laws, in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #499.]

Art. 2700d—18. Salary and expenses of Superintendents in counties of enumerated population

Section 1. In counties having a population of not less than twenty-one thousand, eight hundred and sixteen (21,816) and not more than twenty-one thousand, eight hundred and twenty-six (21,826); in all counties having a population of not less than forty-one thousand (41,000) and not more than forty-two thousand (42,000); in counties having a population of not less than thirteen thousand, three hundred and eighty-five (13,385) and not more than thirteen thousand, three hundred and ninety-five (13,395); in counties having a population of not less than nineteen thousand, eight hundred and forty-three (19,843) and not more than nineteen thousand, eight hundred and fifty-three (19,853); in counties having a population of not less than thirty-six thousand (36,000) and not more than thirty-six thousand and fifty (36,050); and in counties having a population of not less than twenty-nine thousand, seven hundred (29,700) and not

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more than twenty-nine thousand, seven hundred and fifty (29,750) according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; providing that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum.

Salaries in certain counties

Sec. 2. In all counties of the State of Texas having a population of not less than seventeen thousand, six hundred and sixty (17,660) inhabitants and not more than seventeen thousand, eight hundred and fifty (17,850) inhabitants according to the preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be not less than Two Thousand, Seven Hundred and Fifty Dollars (\$2,750) and not more than Three Thousand Dollars (\$3,000) per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the said counties, and the County Board of Education for each of the counties coming within this bill shall by order entered in its minutes set the salary for each of their respective counties.

Allowance out of State and County Available School Fund; proration of allowance

Sec. 2a. In making the annual per capita apportionment to the public free schools, the County Board of Education of each of the counties coming under Section 2 of this Act shall also make an annual allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand Dollars (\$3,000) for the salary of the County Superintendent of Public Instruction and Six Hundred Dollars (\$600) for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said counties in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners Court of each of said counties may expend out of the General Fund of said counties not to exceed Three Hundred Dollars (\$300) per annum to defray the office expenses for stamps, stationery, telephone, and printing, incidental to and necessary in the efficient administration of the schools of said counties respectively.

Monthly payments of salaries and expenses; prerequisites

Sec. 2b. The salary and traveling expenses provided for in Sections 2 and 2a shall be paid monthly, upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the said County Superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expenses provided herein shall be paid by the County Treasurer on the order of the Commissioners Court as said expenses may be incurred.

Salaries and expenses in counties of 30,000 to 31,000 population

Sec. 2c. In all counties in the State of Texas having a population of not less than thirty thousand (30,000) nor more than thirty thousand and one hundred (30,100), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be not less than Twenty-seven Hundred and Fifty Dollars (\$2,750) nor more than Three Thousand Dollars (\$3,000) per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the respective county.

Subsection 1. In making the annual per capita apportionment to the public free schools, the County Board of Education of each such county

mentioned in Section 1 of this Act shall also make an annual allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand Dollars (\$3,000) for the salary of the County Superintendent of Public Instruction and Six Hundred Dollars (\$600) for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners Court of each of said counties may expend out of the General Fund of said county not to exceed Three Hundred Dollars (\$300) per annum to defray the office expense for stamps, stationery, telephone and printing incidental to and necessary in the efficient administration of the schools in said counties respectively.

Subsection 2. The salary and traveling expenses provided for herein shall be paid monthly on the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the County Superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expense provided herein shall be paid by the County Treasurer on the order of the Commissioners Court as said expenses may be incurred. [Acts 1937, 45th Leg., 1st C.S., H.B. # 44.]

Effective July 6, 1937.

Section 3 repeals all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding

Federal Census; providing conditions and regulations relative to payment of salaries, etc.; fixing the salaries of the County Superintendents of Public Instruction in certain counties; providing for the amount that may be allowed for traveling expenses and office expenditures; providing conditions and regulations relative to the payment of salaries and traveling expenses; repealing all laws and parts of laws, General or Special, in conflict therewith; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. # 44.]

Art. 2700d—19. County superintendent—expenses—counties of population

Section 1. In counties having a population of not less than twenty-one thousand, eight hundred and thirty-five (21,835) and not more than twenty-one thousand, eight hundred and fifty (21,850), and in counties having a population of not less than fifty thousand (50,000) and not more than fifty thousand, one hundred (50,100), and in counties having a population of not less than forty-eight thousand, nine hundred (48,900) and not more than forty-nine thousand (49,000) according to the last preceding Federal Census, the county boards of trustees may make such provisions as they deem necessary for office and traveling expenses of the county superintendent of public instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the county superintendent.

Act cumulative

Sec. 2. The provisions of this Act shall be cumulative of all General Laws on the subject and where not otherwise provided herein, such General Laws shall apply; but, in case of conflict, the provisions

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of this Act shall control and be effective. [Acts 1937, 45th Leg., 2nd C.S., H.B. #104.]

Effective Nov. 3, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the amount that may be allowed by county boards of trustees to the county superintendents of public instruction for expenditures for office

and traveling expenses in certain counties according to the last preceding Federal Census; making this Act cumulative of all General Laws on the same subject, such General Laws to apply except in case of conflict when the provisions of this Act shall control; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H. B. # 104.]

3. RURAL SCHOOL SUPERVISOR

[Art. 2701d—3. Supervisor's salary and duties in other counties]

Acts 1937, 45th Leg., S.B. # 57, reads as follows:

"Section 1. That the County Board of School Trustees in cooperation with the County Superintendent in counties having a population of 29,600 to 30,000 as shown by the last Federal Census, and a scholastic population of 9,500 to 10,000 as shown by the last scholastic census, may employ one or more Rural School Supervisors to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the County. Such supervisor shall be elected at a regular or a called meeting of the County Board of School Trustees for a term of not less than nine months nor more than two years; provided such supervisor may be subject for reelection as long as the work is satisfactory.

"Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons, by suggesting methods of presenting the work, and by aiding them in any way possible.

"Sec. 3. The supervisor, in cooperation with the County Superintendent, may call meetings of the teachers when deemed necessary for the purpose of discussing their work with them and it shall be the duty of such teachers to attend all such meetings whenever possible.

"Sec. 4. The Rural School Supervisor shall have had at least four years' training in a first class college or university with special training for such supervision and shall be the holder of a Permanent First Class Certificate issued by the State Department of Education of Texas; shall have had at least five years' teaching experience in the primary and intermediate grades of rural schools; shall attend a first class college or university at least one term every three years, such training shall include at least one course in Rural School Supervision, and failure to comply with this last clause shall disqualify from future supervisory work.

"Sec. 5. The salary of such supervisor shall be fixed by the County Board of School Trustees and the County Superintendent, provided that the annual salary of the su-

ervisor, including the office and traveling expenses, shall not exceed Two Thousand (\$2,000.00) Dollars, and said salary or salaries are to be paid out of the County Administration Fund."

Effective March 16, 1937.

Acts 1937, 45th Leg., S.B. # 410, reads as follows:

"Section 1. That the county board of school trustees in counties having a population of not less than 64,351 nor more than 64,451, according to the last Federal Census, and a scholastic population of at least 14,067, as shown by the scholastic report of the preceding school year, may employ upon the recommendation of the county superintendent a rural school supervisor or supervisors to plan, outline and supervise the work in the primary and intermediate grades of the rural schools of the county.

"Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and assist the teachers with their class work by suggesting methods of presenting the work by giving demonstration lessons for the teachers and by aiding them in any other manner possible. Said supervisor shall have authority to call meetings of the teachers when deemed necessary, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

"Sec. 3. The supervisor employed under the provisions of this Act must have had at least five years experience as a teacher or supervisor of primary or intermediate work. Said supervisor must also have a degree obtained from a reputable college or university and must be the holder of a teacher's permanent state certificate.

"Sec. 4. The salary of the rural school supervisor under the terms of this Act shall be determined by the county board of school trustees; provided said salary shall not exceed Eighteen Hundred (\$1,800.00) Dollars for any one year. It is further provided that the salary of said supervisor shall be paid from the county school administration fund."

Effective March 16, 1937.

Acts 1937, 45th Leg., H.B. # 706 relating to cities of 290,000 to 320,000 reads as follows:

"Section 1. That the County Board of School Trustees, in conjunction with the County Superintendent, in counties having a population of not less than two hundred and ninety thousand (290,000) nor more than three hundred and twenty thousand (320,000), according to the last preceding Federal Census, may employ rural school supervisors, not to exceed two (2), to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of such counties. Each candidate for supervisor must have a college degree and be required to present other appropriate evidence of proficiency in rural school supervision.

"Sec. 2. It shall be the duty of such supervisor or supervisors to visit the schools of the county and help the teachers with their class work, by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding them in any way possible.

"Sec. 3. The supervisors, when authorized by the County Superintendent, may call meetings of the teachers when deemed necessary for the purpose of discussing their work with them, and it shall be the duty of such teachers to attend all such meetings, whenever possible.

"Sec. 4. The salaries of such rural su-

perisors shall be determined by the County Board of School Trustees, providing that the total salary paid to any such supervisor shall not exceed Two Thousand, Two Hundred Dollars (\$2,200) for any one year, inclusive of traveling expenses. The said salaries shall be paid out of the State Available Funds apportioned to the common school districts of said county each scholastic year by a per capita assessment for that purpose, levied by the County School Board not later than September 1st of each scholastic year, provided that the payment of such assessment may be made in two (2) equal installments, the first on or before October 1st, and the second on or before March 1st of each successive school year.

"Sec. 5. The County Board of School Trustees shall have the power to discontinue the office of rural school supervisor at any time such board may consider the same desirable.

"Sec. 6. The employment of a rural supervisor under the terms of this Act shall exempt the County Superintendent from holding Teachers Institute for rural teachers and teachers of independent districts of the county and shall exempt the teachers from attendance upon a Teachers Institute as provided in Article 2691, Revised Civil Statutes of Texas, 1925, and as amended by the Fortieth Legislature."

Effective April 8, 1937.

CHAPTER TWELVE—COUNTY UNIT SYSTEM

2740f—1. Validation of prior actions [New]. 2740f—2. County unit system in counties of 5,600 to 5,750 [New].

Art. 2740f. County wide Maintenance Tax

Section 1. This Act is applicable to all counties having an assessed valuation of taxable property according to the last approved tax rolls of not less than Twenty Million (\$20,000,000.00) Dollars and a population according to the latest Federal Census, of not more than three persons per square mile. Any county coming within the terms of this Act shall have a County Unit System of education to the extent specified in this Act. For the purpose of levying, assessing, and collecting a School Maintenance Tax and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a school district, hereinafter described as the county-wide district, the taxing power to be exercised as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article 7, Section 3 of the Constitution but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided. Whenever a petition is presented to the County Judge of any such county, signed by at least one hundred qualified property taxpaying voters residing therein, asking that an election be ordered for the purpose of determining whether or not a Maintenance Tax shall be levied, assessed and collected on all taxable property within said county for the maintenance of public schools therein, not exceeding Ten (10%)

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Cents on the One Hundred (\$100.00) Dollars of assessed valuation of taxable property, it shall be the duty of the County Judge, immediately, to order an election to be held within said county to determine said question. Notice of said election shall be given by publishing a copy of the election order in a newspaper of general circulation in said county once each week for at least two weeks, the date of the first publication to be not less than twenty days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election notice within the boundaries of each Independent and each Common School District, and one copy of said notice shall be posted at the court house door. Said notice shall be posted at least twenty days prior to the date fixed for said election. Except as otherwise provided herein, the manner of holding said election shall be controlled by the general election laws of the State, and only resident, qualified property taxpaying voters shall be permitted to vote at said election. Said election shall be held at the usual voting places in the several election precincts of such county. Said election returns shall be made and delivered to the County Judge and shall be canvassed by the Commissioners' Court of such County at its next regular or special meeting following said election. A majority vote of those voting at said election shall be sufficient to carry said election. The result of said election shall be recorded in the minutes of the Commissioners' Court and certified by the County Clerk and Ex-Officio Clerk of the Commissioners' Court to the County Superintendent or Ex-Officio Superintendent of said County. [As amended Acts 1937, 45th Leg., S.B. # 238, § 1.]

Effective March 18, 1937.

Section 3 of the amendatory act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

Sec. 11. In the event the county-wide Maintenance Tax is adopted in any county affected by this Act, the Commissioners' Court shall thereafter have the power to levy such tax for each year until and including taxes for the year 1942 which, under present laws, will be due October 1, 1942, and delinquent after January 31, 1943. Powers acquired under this Act shall remain effective until all taxes levied during such period of time shall have been collected; but no further county-wide Maintenance Tax shall be levied thereafter. On and after January 31, 1943, each common and independent school district in such county shall revert to its original status for taxing, administrative, and all other purposes. [Acts 1933, 43rd Leg., 1st C.S., p. 12, ch. 7, as amended Acts 1937, 45th Leg., S.B. #238, § 1.]

Amendment of 1937, effective March 18, Emergency section. See note under section 1, ante.

Art. 2740f—1. Validation of prior actions

All actions heretofore taken by the Commissioners' Court, the County officials, or the officials of school districts located in any such county, or in behalf of any such county affected by this Act and all elections heretofore held in any such county for the purpose of acquiring and obtaining the advantages of said Act, and all county-wide school taxes heretofore levied by virtue of said Act are hereby expressly authorized and validated. [Acts 1937, 45th Leg., S.B. #238, § 2.]

Effective March 18, 1937.

Emergency section. See note under section 2740f, § 1, ante.

Art. 2740f—2. County unit system in counties of 5,600 to 5,750

Section 1. Any county in this State containing a population of not less than five thousand, six hundred (5,600) nor more than five thou-

sand, seven hundred and fifty (5,750) according to the last preceding Federal Census shall have a county unit system of education to the extent specified in this Act, and for the purpose of levying, assessing, and collecting a school equalization tax, and for such other administrative functions as are herein set forth; the territory of each of such counties may be created into a county-wide school district in the manner hereinafter provided and may exercise the taxing power as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article 7, Section 3, of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. On the petition of as many as one hundred (100) legally qualified voters of any county coming under the provisions of this Act praying for the formation of such county-wide school district, the County Judge shall, within thirty (30) days, order an election to be held throughout the county. The County Judge shall give notice of the date of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election, and all legally qualified voters shall be allowed to vote at said election. The form of ballot shall be substantially as follows:

“For Equalization District”

“Against Equalization District”

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of votes cast shall favor the formation of such district, the Court shall declare the result thereof and declare the county-wide school equalization district duly and legally created and the provisions of this Act duly adopted.

Sec. 3. The general management, supervision, and control of the public schools and of the educational interests of each county adopting the provisions of this law shall be vested in the County Board of School Trustees, except as otherwise provided by law, and said Board shall perform such duties as are or may be required of it by existing law and by the provisions of this Act and shall constitute the Board of Trustees for such county-wide district. Any such county-wide school equalization district formed in the manner hereinabove provided may levy and collect annually on all taxable property in the county an equalization tax not to exceed Twenty (20) Cents on the One Hundred Dollars (\$100) valuation of property situated in said county, and the money derived from such tax shall be known as an equalization fund for the support of the public schools of the county, which fund shall be distributed to the school districts of the county as provided herein.

Sec. 4. On the petition of as many as one hundred (100) legally qualified property taxpaying voters of any county which shall have adopted the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days from the date of such order. The County Judge shall give notice of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election. Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote in said election. The form of ballot is substantially as follows:

“For County Tax”

“Against County Tax”

The Commissioners Court shall, at its next regular or special meeting, canvass the returns of said election, and if a majority of the votes cast

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shall favor such tax, the Court shall declare the results and certify same to the County Board of School Trustees and to the County Tax Assessor and Collector, and said Board of County School Trustees shall thereupon be authorized to levy said tax and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which said tax was adopted.

Sec. 5. In the counties adopting the provisions of this law, the County Tax Assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for State and county purposes, and the County Tax Collector shall collect said tax at the same time and in the same manner as other State and county taxes are collected. The Tax Collector shall deposit the money collected from said tax in a separate fund to be known as the County Equalization Fund for the support of the public schools of the county. He shall have the same authority, and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or about the 10th of each month, make a report to the County Board of School Trustees and to the County Superintendent of schools, showing all moneys collected by him during the last month by said tax, and shall each month place such funds in the Equalization Fund. The County Superintendent shall keep a record, both received and paid out, of all money from said Fund. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts; however, no part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon, and the moneys received and held by independent school districts shall be protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The Tax Collector, before entering upon the duties of his office, shall enter into a bond, with two (2) or more good and sufficient sureties, or surety bond, for the protection of said Equalization Fund, said bond to be made payable to the County Board of School Trustees, and to be made in a sum not less than double the amount of money which he may have in his possession of said Fund at any time. The amount of said bond shall be fixed by the County Board of School Trustees. The County Board shall require a similar bond of any and all other persons or corporations in whose possession such Funds may be kept.

Sec. 7. The County Board of School Trustees shall distribute the money collected from any taxes levied by said district to the common and independent districts of the county on a per capita basis according to the number of scholastic pupils shown by the last preceding official scholastic census, and county-line districts shall be eligible to receive such per capita apportionment based upon the number of scholastic pupils residing in the county of such equalization district, as shown by the latest official scholastic census of such district. The County Board of School Trustees shall issue warrants against such Equalization Fund to the school district trustees on a per capita basis of scholastic pupils in each district; provided that the County Board may, from time to time, as the money is collected, issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis of scholastic pupils in the respective districts.

Sec. 8. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess, and collect the maintenance taxes theretofore authorized by the property

taxpayers in said respective districts. This law shall not affect the right and duty of said respective school districts to levy, assess, and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess, and collect taxes sufficient to pay principal of, and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 9. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common or independent school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the County Board of School Trustees and assessed and collected by the County Tax Assessor and Collector.

Sec. 10. In case any clause, sentence, paragraph, section, or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, section, or part of this Act. All laws, or parts of laws, both general and special, in conflict with this Act are hereby repealed. [Acts 1937, 45th Leg., H.B. # 596.]

Effective April 15, 1937.

Section 11 of this act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act to permit any county containing a population not less than five thousand, six hundred (5,600) nor more than five thousand, seven hundred and fifty (5,750) according to the last preceding Federal Census to adopt by a majority vote of qualified voters of such county a county unit system to the extent provided in this Act; making provisions for the formation of a county-wide school district therein; making provision for holding election in each such county on the question of the adoption of the provisions of this Act; making provision for holding an election in each such county to determine whether an equalization tax not to exceed twenty

(20) cents on the One Hundred Dollars (\$100) valuation of property shall be levied and collected annually on all taxable property in the county, such tax to be distributed to the school districts of the county as herein provided; making provision for the assessment and collection of said equalization tax, and prescribing the duties of the County Tax Assessor and Collector and County Superintendent; prescribing the duties of the County Board of School Trustees with respect to such tax and the funds derived therefrom; providing that all rights, duties and powers of the several common and independent school districts in any such county shall remain undisturbed and shall not be affected, except as expressly provided in this Act; providing a saving clause; repealing all laws in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #596.]

CHAPTER THIRTEEN—SCHOOL DISTRICTS

1. COMMON SCHOOL DISTRICTS

- Art.
2742n. Validating establishment, combination, alteration, etc., of independent or common school districts [New].
- 2744d. [New, Repealed].
- 2744e. County wide districts in counties of 20,000 to 32,500 [New].
- 2750a. Contracts with principals, superintendents, and teachers; term; approval by County Superintendent [New].

2. INDEPENDENT DISTRICTS IN TOWNS

- Art.
2761b. Exemption from county control of independent districts in counties of 11,000 to 11,021 population [New].

3. INDEPENDENT DISTRICTS IN CITIES

- 2777d. Term of office of school trustees in cities of 101,000 to 105,000 constituting independent district [New].

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4. TAXES AND BONDS

- Art.
2784c. Tax rate in certain counties having population of 130,000 to 150,000 [New].
- 2786b. Assumption of bonded indebtedness by school districts when boundaries extended [New].
- 2790a—1. Levies and assessments of ad valorem taxes validated [New].
- 2790g. Tax rate in certain independent districts of 15,140 to 15,160 population; elections [New].
- 2790h. Independent districts in counties of 32,500 to 32,800 population authorized to borrow money for construction of schools; interest bearing warrants authorized [New].
- 2790i. Time warrants of independent districts of 769 to 775 scholastics validated [New].
- 2790j. Refunding bonds authorized in certain independent districts containing city or town of 7,100 to 7,200 population [New].
- 2792a. Assessment at fair market value or intrinsic value [New].
- 2802g. Tax rate in independent district including city of 13,700 to 13,800 [New].
- 2802h. Maximum tax rate in independent districts including city or town having certain population [New].
- 2802i. Tax rate in independent districts including city of 400 to 450 population in counties of 30,400 to 30,600 population [New].

5. ADDITIONS AND CONSOLIDATIONS

- 2806b. Validation of county line independent school districts formed by consolidation with contiguous common school districts [New].

6. DISTRICTS IN LARGE COUNTIES

- Art.
2815g—1a. Provisions of act inapplicable to counties of over 290,000 and less than 320,000 [New].
- 2815g—10. Validation of consolidation of contiguous independent school districts [New].
- 2815g—11. Validating districts in counties of 98,000 to 100,000 [New].
- 2815g—12. Validation of all school districts, acts of trustees, bonds, etc. [New].
- 2815g—13. Validating elections for establishing, consolidating, abolishing, or changing independent or common districts [New].
- 2815g—14. Validation of school district bond containing irregularity as to maturity date [New].
- 2815g—15. Validation of acts of trustees in creating, etc., school districts in counties not exceeding 11,400 population [New].
- 2815g—16. Validation of districts created by joining county line and contiguous districts [New].
- 2815g—17. Validation of election of trustees in independent district [New].
- 2815g—18. Validation of independent district elections assuming indebtedness apportioned against districts [New].

7. JUNIOR COLLEGES

- 2815h—1. Validation of Junior College Districts [New].
- 2815h—2. Validation of independent school districts constituting Junior College Districts [New].

1. COMMON SCHOOL DISTRICTS

Art. 2742f. [Detaching territory from one school district and attaching to another]

Acts of County Boards of School Trustees under Act of 1935, validated, see article 2742n, post.

[Art. 2742k. Validation of districts]

Acts 1937, 45th Leg., H.B. #796 validating school districts in counties of 39,497 to 39,500 reads as follows:

"Section 1. That the actions of any County Board of Trustees in this State creating any common school district, are hereby in all things validated. The actions of said trustees with reference to the attachment of territory, the detachment of territory, or the annexation of any territory within the jurisdiction of said Board to any common or independent school district, are hereby in all things validated as though they had been duly and legally

established in the first instance.

"Sec. 1a. This Act shall apply only to those counties having a population of thirty-nine thousand, four hundred and ninety-seven (39,497) to thirty-nine thousand, five hundred (39,500) according to the last preceding Federal Census and that no part of this Act shall affect any litigation of any district now pending.

"Sec. 1b. The Acts of the County Board of Trustees shall not be valid except those Acts that are passed by four-fifths majority of the Board itself."

[Art. 2742m. Abolition or subdivision of districts; adjustment of indebtedness]

Acts of County Boards of School Trustees under Act of 1935, validated, see article 2742n, post.

Art. 2742n. Validating establishment, combination, alteration, etc., of independent or common school districts

That all acts of County Boards of School Trustees in any County in this State in laying out and attempting to establish, combine, abolish or change any independent or common school districts in the county over which such County Board of School Trustees has jurisdiction under and by virtue of Chapter 339, Acts of the Regular Session of the Forty-fourth Legislature, 1935,¹ or under Chapter 151, Acts of the Regular Session of the Forty-fourth Legislature, 1935,² are hereby in all things ratified, confirmed and validated, and that all elections held in any County in this State for the purpose of laying out, establishing, combining, abolishing or changing any such independent or common school districts, are also in all things ratified, confirmed and validated; provided that this Act shall not validate any such acts of the County Boards of School Trustees in any County, nor any elections held in any such County, for the purpose of laying out, establishing, combining, abolishing or changing any such independent or common school districts in which there is now pending any contest or litigation. [Acts 1936, 44th Leg., 3rd C.S., p. 2093, ch. 502, § 1.]

¹ Article 2742f.

² Article 2742m.

Effective Oct. 31, 1936.

Section 2 of this Act declared an emergency and provided that Act should take effect from and after its passage.

Title of Act:

An Act ratifying, confirming and validating all acts of County Boards of Trustees in laying out or attempting to establish, combine, abolish or change any independent or common school districts, and all elec-

tions held in any County in this State for the purpose of laying out, establishing, combining, abolishing or changing any such independent or common school districts under the provisions of Chapter 339, Acts of the Regular Session of the Forty-fourth Legislature, 1935, or under Chapter 151, Acts of the Regular Session of the Forty-fourth Legislature, 1936; and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 2093, ch. 502.]

Art. 2744d. [Repealed by Acts 1937, 45th Leg., 1st C.S., H.B. # 46, § 1.]

Prior to its repeal this article was Acts 1937, 45th Leg., H.B. # 915. Effective June 25, 1937.

Art. 2744e. County wide districts in counties of 20,000 to 32,500

Section 1. All counties in this State having a population of not more than thirty-two thousand, five hundred (32,500) nor less than twenty thousand (20,000), according to the last preceding Federal Census, and containing a valuation of Seventy-five Million Dollars (\$75,000,000) or more, are hereby created into county-wide equalization school districts, and each such county shall have the county unit system of education to the extent specified in this Act and may exercise the taxing power conferred on school districts by Article 7, Section 3, of the Constitution to the extent hereinafter provided but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. The general management, supervision, and control of the public schools and of the educational interests of such counties shall be vested in the County Board of School Trustees, except as otherwise pro-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

vided by law and said Board shall perform such duties as are or may be required of it by existing law and by the provisions of this Act and shall constitute the Board of Trustees for such county-wide equalization district. Any such county-wide school equalization district may levy and collect annually on all taxable property in the county an equalization tax not to exceed Twenty-five (25) Cents on the One Hundred Dollars (\$100) valuation of property situated in said county and the money derived from said tax shall be known as an equalization fund for the support of the public schools of the county, which funds shall be distributed to the school districts of the county as provided herein.

Sec. 3. On the petition of as many as one hundred (100) legally qualified taxpaying voters of any county, subject to the provisions of this Act praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days, nor less than twenty (20), from the date of such order. The County Judge shall give notice of such election by causing to be published a copy of the order of the election in some newspaper, published in the county once each week for three (3) consecutive weeks prior to the date of such election, the date of the first publication to be not less than twenty (20) days prior to the date fixed by the election. Only legally qualified property taxpaying voters who own property in the county and who have duly rendered the same for taxation shall be allowed to vote in said election. The form of ballot shall be substantially as follows:

"For the county-wide equalization tax."

"Against the county-wide equalization tax."

The manner of holding said election shall be governed by the General Laws of the State of Texas regulating elections and shall be held at the regular polling places within the county with duly appointed election officers holding said election. The officers holding the election shall make returns thereof to the County Judge within ten (10) days after the same was held.

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the Court shall declare the result and certify the same to the County Board of School Trustees and to the County Tax Assessor and Collector, and said Board of County School Trustees shall thereupon be authorized to levy said tax and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of five (5) years from the date of the election at which said tax was adopted.

Sec. 4. In counties voting such equalization tax the County Tax Assessor shall assess all the taxable property in the county at the same rate of valuation as it is assessed for the State and county purposes, and the County Tax Collector shall collect said tax at the same time and in the same manner as State and county taxes are collected. The Tax Collector shall have the same authority and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall on or before the 10th of each month make a report to the County Board of School Trustees and to the County Superintendent of Schools showing all moneys collected by him during the last month by said tax. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts.

Sec. 5. The County Superintendent shall be the Treasurer of the county-wide equalization district and shall keep an accurate record of all

moneys received and paid out by such county-wide equalization district. The county depository shall be the depository for the county-wide equalization district and such depository shall enter into a bond of a like condition and amount as is prescribed by law for depositories of county funds. The Tax Collector shall on or before the 10th of each month deposit all moneys collected by him during the preceding month by said school equalization tax in the depository to the credit of the county-wide school equalization fund.

Sec. 6. The County Board of School Trustees shall distribute the money collected from any taxes levied by said district to the common and independent school districts of the county on the same basis that the State per capita apportionment is distributed among said common and independent school districts. The County Board of School Trustees shall issue warrants to be signed by the president of said Board, attested by the secretary thereof, against such equalization fund to the School District Trustees on a per capita basis as is provided herein, provided, however, that the County Board shall from time to time as the money is collected issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis as provided herein.

Sec. 7. This Act shall not have the effect of changing any duties imposed on or powers conferred on the Trustees of any common or independent school district, situated in the counties covered by this Act unless and except as expressly provided herein. It being the intention of this law that respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the County Board of School Trustees and assessed and collected by the County Tax Assessor and Collector, and distributed to the respective districts by the County Board of School Trustees.

Sec. 8. In the event any clause, sentence, paragraph, Section, or part of this Act shall be held unconstitutional or void, then and in that event it is hereby declared to be the legislative intent that all other clauses, sentences, paragraphs, Sections, and parts of this Act shall have full effect according to their purport and intent. All laws or parts of laws, both General and Special, in conflict with this Act are hereby repealed in so far and only in so far as they conflict with the provisions of this Act in its local application. [Acts 1937, 45th Leg., H.B. # 1096.]

Effective April 28, 1937.

Section 9 of this Act declared an emergency making it effective on and after its passage.

Title of Act:

An Act creating county-wide equalization school districts in all counties containing a population of not less than twenty thousand (20,000) nor more than thirty-two thousand, five hundred (32,500), according to the last preceding Federal Census, and containing a valuation of Seventy-five Million Dollars (\$75,000,000) or more; providing for the vesting of the general management, supervision, and control of the public schools and educational interests of such counties in the county board of school trustees and constituting such trustees as the Board of Trustees for such county-wide equalization districts; making provision for the levying of an equalization tax of not to exceed Twenty-five (25) Cents on One Hundred Dollars

(\$100) valuation of property situated within the county; providing for the holding of an election in each such county on the question of levying such equalization tax and providing for the assessment and collection of such taxes by the County Tax Collector, prescribing his duties and compensation; making provision to constitute the County Superintendent as Treasurer of the county-wide equalization district and prescribing his duties, designating the county depository as the depository for such district; prescribing the duties of the County Board of Trustees with respect to such tax and funds derived therefrom; providing that the Act shall not have the effect of changing any duties or powers imposed upon the Trustees of any common or independent school districts except as expressly provided in the Act; providing a saving clause; repealing all laws in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 1096.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 2746. [2819-20] Conduct of election

Said trustees may appoint three (3) persons for each voting box of the district who shall be qualified voters of the district and who shall hold such election and make returns thereof to said trustees within five (5) days after such election, and said persons shall receive as compensation for their services the sum of One Dollar (\$1) each, to be paid out of the General Fund of the county in which said election was held. The board of trustees, when ordering such election and appointing persons to hold election, shall give notice of the time and place where such election will be held, which notice shall be posted at three (3) public places within the district at least twenty (20) days prior to the date of holding said election. If, at the time and place for holding such election, any or all of the persons so appointed to hold such election are absent or refuse to act, then the electors present may select of their number a person or persons to act in the place of those absent or refusing to act. Said board of trustees shall meet and canvass the returns of said election within five (5) days after returns have been made and declare the result of said election and issue to the persons so elected their commissions as such trustees, and shall notify the County Judge or the County Superintendent if the county has a Superintendent. [As amended Acts 1937, 45th Leg., H.B. # 782, § 1.]

Amendment of 1937, effective May 1, 1937.

Section 2 of the amendatory acts of 1937 declared an emergency making the act effective on and after its passage.

Art. 2750a. Contracts with principals, superintendents, and teachers; term; approval by County Superintendent

That trustees of any common school district or consolidated common school district shall have authority to make contracts for a period of time not in excess of two (2) years with principals, superintendents, and teachers of said common school districts or consolidated common school districts, provided that such contracts shall be approved by the County Superintendent. No contract may be signed by the trustees until the newly elected trustee has qualified and taken the oath of office. [Acts 1937, 45th Leg., H.B. # 137, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing trustees of common school districts and consolidated common

school districts to make contracts with superintendents, principals, and teachers, with the approval of the County Superintendent; providing for the length of time of such employment; providing newly elected trustees may not sign contracts until they have qualified and have taken the oath of office, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 137.]

2. INDEPENDENT DISTRICTS IN TOWNS

Art. 2761b. Exemption from county control of independent districts in counties of 11,000 to 11,021 population

In all counties having a population of not fewer than eleven thousand (11,000) nor more than eleven thousand and twenty-one (11,021) according to the last preceding Federal Census, the independent school districts of said counties regardless of their scholastic population, shall be exempt from county supervision of their schools. Provided that said schools shall be subject to assessment and payment of county administration costs as provided in the General Law, and the provisions of the General Law relating to taking of scholastic census and supervision of

rural aid shall also continue to apply to such districts. [Acts 1937, 45th Leg., 2nd C.S., S.B. #16, § 1.]

Effective Nov. 3, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to exempt from county supervision of its schools all independent school districts in certain counties regardless of the population of said districts, and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 16.]

3. INDEPENDENT DISTRICTS IN CITIES

Art. 2777d. Term of office of school trustees in cities of 101,000 to 105,000 constituting independent district

Section 1. In all cities constituting Independent School Districts, or which have assumed control of their Public Free Schools, and having, according to the last preceding Federal Census, a population of not less than one hundred and one thousand (101,000) inhabitants, and not more than one hundred and five thousand (105,000) inhabitants, the term of office of School Trustees shall be six (6) years.

Choosing terms by lot

Sec. 2. In all such Districts in which the terms of office of four (4) elective Trustees expire in 1937, after their successors are elected they shall determine, by lot, which two (2) members shall serve for three (3) years and which two (2) members shall serve for five (5) years. Those members drawing Nos. 1 and 2 shall serve three (3) years; those members drawing Nos. 3 and 4 shall serve five (5) years. In all such Districts in which the terms of office of three (3) elective Trustees expire in 1938, their successors shall be elected for a term of six (6) years, and thereafter on the first Saturday of April, of each even numbered calendar year, either three (3) Trustees or two (2) Trustees shall be elected to serve for a term of six (6) years.

Vacancy

Sec. 3. If any vacancy or vacancies shall occur in the membership of any such Board of School Trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining Trustees of such District, but any Trustee so elected to fill a vacancy shall serve only for the unexpired term of his or her predecessor.

Time of election

Sec. 4. Except as modified by this Act, all such elections in such Independent School Districts of cities shall be held in the manner and in conformity with provisions of law now applicable; the date of such elections to be held on the first Saturday in April of the year in which the term of any such School Trustee expires.

Provisions cumulative

Sec. 5. The provisions of this Act shall be cumulative of all General Laws on the subject of this Act not in conflict herewith, and where not otherwise provided herein, such General Laws shall apply; but in case of conflict, the provisions of this Act shall control and be effective. [Acts 1937, 45th Leg., H.B. # 429.]

Effective April 14, 1937.

Section 6 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act fixing terms of office and providing for election of school trustees in cities constituting Independent School Districts

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

or which have assumed control of their Public Free Schools and having, according to the last preceding Federal Census, a population of not less than one hundred and one thousand (101,000) inhabitants, and not more than one hundred and five thousand (105,000) inhabitants; providing the provisions of this Act shall be cumula-

tive of all General Laws on the subject of this Act not in conflict herewith, and where not otherwise provided herein, such General Laws shall apply; but in case of conflict, the provisions of this Act shall control and be effective, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 429.]

4. TAXES AND BONDS

Art. 2784c. Tax rate in certain counties having population of 130,000 to 150,000

Section 1. In all common school districts in this State which have a taxable valuation of One Million, Five Hundred Thousand Dollars (\$1,500,000) or less, as shown by the last approved tax rolls of the county in which such school districts are situated, in counties having a population of one hundred and thirty thousand (130,000) to one hundred and fifty thousand (150,000) and having therein two (2) cities of more than fifty thousand (50,000) population each, according to the last preceding Federal Census, the maximum rate of tax which may be levied in each said common school district for the maintenance of the public schools and the issuance of bonds may be One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property situated in said districts, said tax to be authorized, assessed, levied, and collected under the provisions of the General Laws. The amount of bond tax herein authorized shall never exceed Fifty (50) Cents on the one hundred dollars valuation of taxable property.

Elections authorizing tax; qualifications of electors

Sec. 2. No tax shall be levied, collected, abrogated, diminished, or increased and no bonds shall be issued hereunder until such action has been first authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property taxpaying qualified voters of such district shall be entitled to vote.

Election procedure

Sec. 3. Before an election is held to determine the proposition of the levy of such tax, a petition therefor signed by twenty (20) or more, or a majority of those entitled to vote at such an election, shall be presented to the County Judge of the county in which such common school district is situated. On presentation of said petition, said official shall order an election for such purpose and order the sheriff to post notices thereof in three (3) places in the district for three (3) weeks prior thereto. The petition, election order, and notice of election shall in all cases either state the specific rate of tax to be voted on or that the rate shall not exceed the limit herein specified. All election orders, and notices of election shall state the date and place of holding the election. The ballots for maintenance tax elections shall have written or printed thereon the words, "For the school tax" and "Against the school tax." If said maintenance tax proposition is defeated at an election held for such purpose, no other election shall be held therefor, for one year from the date of said election. The Commissioners Court shall canvass the returns and declare the results of said election and said election shall be held and conducted as provided by law for General Elections except as herein provided.

Authority of Commissioners Court

Sec. 4. The Commissioners Court of the county in which such common school districts are situated under the provisions of this Act shall have the power to levy and cause to be collected the annual tax herein authorized subject to the foregoing provisions of this Act. [Acts 1937, 45th Leg., H.B. # 1118.]

Effective May 20, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied for the purpose of maintaining the public schools and issuing of bonds in common school districts having a taxable valuation of One Million, Five Hundred Thousand Dollars (\$1,500,000) or less

in counties having a population of one hundred and thirty thousand (130,000) to one hundred and fifty thousand (150,000) and having therein two (2) cities of more than fifty thousand (50,000) population each, according to the last preceding Federal Census; providing for elections with reference to said tax; authorizing Commissioners Courts to levy and collect said tax, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 1118.]

Art. 2786b. Assumption of bonded indebtedness by school districts when boundaries extended

Section 1. This Act shall be applicable to towns and villages incorporated for free school purposes only, common school districts, independent school districts, consolidated common school districts, consolidated independent school districts, county wide school districts, consolidated county wide school districts and rural high school districts and to every other class or type of school district, which have been heretofore or hereafter shall have been extended or enlarged under such circumstances that at the time of such extension or enlargement there were or are bonds outstanding payable from taxes levied against territory which does not comprise all of the territory of such extended or enlarged district.

Election; taxes

Sec. 2. The governing board of any such district, without the prerequisite filing of a petition requesting such action, is hereby authorized to order that an election be held in said district as enlarged or extended on the question of the assumption of such bonded indebtedness by said district as enlarged or extended and the levying and collecting of a tax therein to pay the principal and interest thereof. The law in reference to the calling of elections and the holding of elections for the issuance of school house bonds by any such district shall be applicable to such election to the extent that such law is applicable and not in conflict herewith, and in event of conflict the provisions of this Act shall control. Only qualified electors who own taxable property in said district and who shall have duly rendered the same for taxation shall be qualified to vote. If a majority of persons voting at said election shall vote in favor of the assumption of said indebtedness and the levying and collecting of said tax said indebtedness shall from and after the canvassing of the returns and declaration of the result of said election be the general obligation of such school districts as enlarged or extended, payable from taxes that shall be levied upon all taxable property therein, subject only to limitations prescribed by law.

It shall be the duty of the governing board of such district from and after the assumption of such indebtedness to levy and collect annually taxes against all of the taxable property in said district sufficient to pay the interest and to pay or to provide for the payment of the principal thereof.

Prior elections validated

Sec. 3. In every instance wherein an election has been held heretofore in any such district on the question of the assumption of indebtedness by such district as enlarged or extended, where a majority of those voting at said election voted in favor of the assumption of such indebtedness, and in which the governing board of such districts has heretofore canvassed the returns and declared the result thereof, the act of the governing board of such district in calling said election, the act of the voters in voting to assume such indebtedness, and the act of the governing board in canvassing the returns and declaring the results of such election are each and all hereby expressly validated. The indebtedness thus attempted to be assumed at each such election is hereby declared to be the indebtedness of such district as enlarged and extended and the duty is hereby imposed on the governing board of each such district to levy and collect annually taxes against all of the property in said district, sufficient to pay the interest and to pay or provide a proportionate part of the principal thereof.

Refunding indebtedness; bonds

Sec. 4. The law applicable to the issuance of refunding bonds by school districts shall be available in reference to the indebtedness thus assumed under or validated by the provisions of this Act, in event the governing board of such district elects to refund such indebtedness. In every instance wherein an election has heretofore been held on the question of assuming any such indebtedness and the governing board of such district has adopted resolutions, or passed orders authorizing the issuance of refunding bonds eligible in exchange for said indebtedness which the district has attempted to assume, the actions taken by such governing board are hereby expressly validated and said refunding bonds when approved by the Attorney General of the State of Texas and registered in the office of the Comptroller of Public Accounts of the State of Texas in lieu of said original items of indebtedness are hereby expressly validated and when so issued registered and delivered shall constitute valid and binding obligations of such district so extended or enlarged.

Application of act

Sec. 5. It is expressly provided, however, that the provisions of this Act validating elections heretofore held on the question of the assumption of indebtedness and validating refunding proceedings heretofore had by such governing boards shall not apply in instances wherein the validity of such election or the validity of such action by such governing board is in litigation at the time this Act becomes effective.

Districts having coterminous boundaries

Sec. 6. In each instance wherein a common school district has been or shall hereafter be converted into an independent school district and in each instance wherein a district of any kind or class has been converted into a district of any other kind or class the boundaries of said original district and of said successor district being coterminous, the indebtedness of said original district shall be held and considered and is hereby declared to be the indebtedness of said successor district without the necessity of an election of any character for the assumption of such indebtedness; and the duty is hereby imposed on the governing board of such successor district to levy and collect annually taxes against all of the property in said district, sufficient to pay the interest and to pay or pro-

vide a proportionate part of the principal thereof. In each instance wherein the governing board of any such converted district shall have heretofore adopted resolutions or passed orders authorizing the issuance of refunding bonds for the purpose of taking up or including therein indebtedness created by any such original district such actions are hereby validated and said refunding bonds as and when approved by the Attorney General of the State of Texas and registered in the office of the Comptroller of Public Accounts of the State of Texas in lieu of such original bonds are hereby expressly validated and shall be held to be the binding obligations of said converted district. [Acts 1936, 44th Leg., 3rd C.S., p. 2105, ch. 508.]

Effective Oct. 31, 1936.

Section 7 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the assumption of bonded indebtedness by districts whose boundaries have been extended or enlarged; prescribing the method of holding elections on the question of the assumption of such indebtedness and the levying and collecting of a tax to pay the principal and interest thereof; imposing the duty on the governing board of any such district to levy and collect such taxes; validating assumption elections heretofore held in instances wherein said elections were carried by a majority vote; declaring such indebtedness to be the indebtedness of such district as enlarged or extended; imposing the duty on the governing board of any such district to levy and collect taxes to pay the principal and interest thereof; making applica-

ble to such indebtedness the law authorizing school districts to issue refunding bonds; validating refunding procedure heretofore attempted by such districts; providing the provisions of this Act shall not apply in instances wherein the validity of such election or the validity of such action by such governing board is in litigation at the time this Act becomes effective; providing that a successor district shall be liable for the indebtedness of its predecessor district in instances wherein the boundaries of said districts are coterminous without the necessity of an election of any character; imposing the duty on the governing board of such district to levy and collect taxes to pay the principal and interest of such indebtedness; validating the attempted issuance of refunding bonds heretofore authorized by such districts, and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 2105, ch. 508.]

Art. 2790a—1. Levies and assessments of ad valorem taxes validated

That all levies and assessments of ad valorem taxes heretofore made by the governing body of any independent school district in this State, not in excess of the limit now provided by law, which are voidable or unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by order, as required by the Statutes of this State; and all assessments of taxes or assessments of property within the limits of any independent school district in this State, subject to taxation under the laws of this State, for taxation under such resolution, motion, or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and statutory Board of Equalization, as required by law, and which are insufficient, and voidable, or unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for any such independent school districts, which are irregular or insufficient (because the reports of such equalization were adopted and accepted) orally, or by other informal action; and the acts of making such equalization were made orally or informally or in incomplete form, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable, the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record and signed by the proper officials of such governing body, and the same as though such assessments of property within such independent

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

school districts for taxation purposes had been made in due and complete form, and the same as though said equalizations and the reports of each of the Boards of Equalization acting for said independent school districts had been made in due and regular form, and adopted and accepted in due and regular form. Provided further, however, the terms of this Act shall not apply to such districts situated wholly or partly within counties having a population of one hundred thousand (100,000) inhabitants or more according to the last preceding Federal Census. Provided further, however, that this Act shall not validate any valuation placed upon property by any Board of Equalization or any Tax Assessor where such property has been valued in excess of its reasonable cash market value, or where such property has been discriminated against as to value or placed upon the rolls at a higher value than property of like kind and character, or at a greater percentage of its value than other property assessed for taxation. Provided, however, that this Act shall not affect any suit now pending in any Court of this State, or that may be filed in ninety (90) days after the effective date hereof and shall not validate any levy, assessment or valuation made or placed on any property where any suit as aforementioned shall be or shall have been filed within the time aforementioned. [Acts 1936, 44th Leg., 3rd C.S., p. 2088, ch. 499, § 1.]

Effective 90 days after Oct. 27, 1936, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate, ratify, approve, confirm, and declare enforceable all levies and assessments of ad valorem taxes heretofore made by independent school districts in this State not in excess of the limit now provided by law, which are voidable and unenforceable because the same were made and adopted by resolution, motion, or other informal action, and because of the failure of the governing body of such districts to appoint the proper and statutory Board of Equalization; and which are insufficient and voidable, or unenforceable on account of technical irregularities in the manner of preparing the books and reports of assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Boards of Equalization acting for any

such school districts, which are irregular or insufficient because the reports of such equalizations were adopted and accepted orally, or by other informal action; and the acts of making such equalization were made orally or informally, or in incomplete form; providing this Act shall not affect suits pending at the time same becomes effective, or those filed within ninety (90) days after effective date hereof; and providing further that this Act shall not validate any valuation placed upon property by any Board of Equalization or any Tax Assessor where such property has been valued in excess of its reasonable cash market value, or apply to districts situated wholly or partly in counties having a population of one hundred thousand (100,000) inhabitants, or more according to the last preceding Federal Census, or where such property has been discriminated against as to value or placed upon the rolls at a higher value than property of like kind and character, or at a greater percentage of its value than other property assessed for taxation, and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 2088, ch. 499.]

Art. 2790g. Tax rate in certain independent districts of 15,140 to 15,160 population; elections

Section 1. In any independent school district having and including within its limits two counties or portions thereof one of which counties according to the latest Federal Census had a population of not fewer than fifteen thousand, one hundred and forty (15,140) and not more than fifteen thousand, one hundred and sixty (15,160) inhabitants, the school district trustees of the independent school district, whether such independent school district was created under the General Laws or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the one hundred

dollars valuation of taxable property of the district as fixed by the county and collected by the County Assessor-Collector;

(2) For the purchase, construction, repair, or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty (50) Cents on the one hundred dollars valuation of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purpose;

(3) The amount of maintenance tax, together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50):

(4) No tax shall be levied, collected, abrogated, diminished, or increased, and no bond shall be issued hereunder, until such action has been authorized by two-thirds of the votes cast at an election held in the district for such purpose, at which none but property tax-paying qualified voters of such district shall be entitled to vote. [Acts 1937, 45th Leg., H.B. # 1141, § 1.]

Effective May 19, 1937.

Section 2 repeals all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied for school purposes in all independent school districts which include within their limits two (2) counties or portions thereof one of which counties according to the latest Federal Census had

a population of not fewer than fifteen thousand, one hundred and forty (15,140) and not more than fifteen thousand, one hundred and sixty (15,160) inhabitants, whether organized under General or Special Laws; providing the values to be fixed by the County Board of Equalization and taxes to be collected by the Assessor-Collector; providing for an election; repealing all laws or parts of laws in conflict herewith, both General and Special; and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 1141.]

Art. 2790h. Independent districts in counties of 32,350 to 32,800 population authorized to borrow money for construction of schools; interest bearing warrants authorized

Section 1. This Act shall apply to independent school districts in counties having a population of not less than thirty-two thousand three hundred fifty (32,350) and not more than thirty-two thousand eight hundred (32,800) according to the last preceding Federal Census. Independent school districts in said counties are hereby authorized to borrow the sum of not more than One Hundred Fifty Thousand (\$150,000.00) Dollars for the purpose of supplementing funds on hand to construct and equip public free school buildings of and in said independent school districts, and to issue time warrants within the limitations and upon the conditions prescribed in Section 2 hereof to evidence the indebtedness so incurred.

Sec. 2. Such time warrants as are authorized by Section 1 of this Act shall be payable within three (3) years from the effective date of this Act and shall bear interest at not more than the rate of five (5%) per cent per annum, and the Boards of Trustees of said independent school districts shall levy a sufficient tax, within legal limitations, to pay the interest on said obligations, and to create a sinking fund sufficient to discharge them at maturity. The powers granted by this Act shall be exer-

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cised by the Boards of Trustees of said districts without the necessity of a vote by the people. [Acts 1937, 45th Leg., 1st C.S., S.B. # 12.]

Effective July 6, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act applying to independent school districts in counties having a population of not less than thirty-two thousand three hundred fifty (32,350) and not more than thirty-two thousand eight hundred (32,800) according to the last preceding Federal Census; authorizing said school districts to borrow money in a sum not to exceed

One Hundred Fifty Thousand (\$150,000.00) Dollars to supplement funds on hand for the construction and equipping of public free school buildings, and to issue time warrants therefor without an election; prescribing the terms and conditions for issuance of said time warrants; providing for the levying of a tax to pay same; prescribing the terms and conditions and the rate of interest of said time warrants; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., S.B. 12.]

Art. 2790i. Time warrants of independent districts of 769 to 775 scholastics validated

Section 1. All time warrants heretofore authorized by the governing bodies of all Independent School Districts in the State of Texas having a scholastic enumeration of not less than 769 and not more than 775, according to the last preceding scholastic enumeration and all proceedings heretofore had in connection with the issuance of such time warrants, including the levy of and provision for a tax for the payment of principal and interest on said time warrants as the same mature, are hereby validated, ratified and confirmed and legalized. The governing bodies of such Independent School Districts shall be and they are hereby authorized and empowered to do any and all things necessary and requisite in the issuance, sale and delivery of said time warrants, and when so issued and delivered, said time warrants shall constitute legal and binding obligations of such Independent School Districts.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any such time warrants heretofore authorized as aforesaid, the validity of which is being contested or attacked in any suit pending at the time this Act takes effect. [Acts 1937, 45th Leg., 1st C.S., S.B. # 28.]

Effective June 28, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating, ratifying, confirming and legalizing all time warrants heretofore authorized by the governing bodies of Independent School Districts in the State of Texas having a scholastic enumeration of not less than 769 and not more than 775 according to the last preceding scholastic enumeration, validating all proceedings heretofore had in connection with the issuance of such time warrants, including the levy of and provision for a tax for the

payment of principal and interest on said time warrants as the same mature and authorizing such governing bodies of said Independent School Districts to do any and all things necessary and requisite in the issuance, sale and delivery of said time warrants; providing that such time warrants, when issued and delivered, shall constitute legal and binding obligations of such Independent School Districts; providing that this Act shall not apply to any proceedings or time warrants, the validity of which is being contested in any suit pending at the effective date of this Act and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., S.B. # 28.]

Art. 2790j. Refunding bonds authorized in certain independent districts containing city or town of 7,100 to 7,200 population

Any independent school district in which there is situated a city or town with a population of not less than seven thousand, one hundred (7,100) and not more than seven thousand, two hundred (7,200), according to the last preceding Federal Census, which independent school district has outstanding bonds and is delinquent in the payment of either principal or interest upon said bonds, and which said bonds were originally

sold at a premium and such independent school district realized the benefit from said premium, and which independent school district can refinance and/or refund said bonds at a less rate of interest than said bonds now bear and thereby create a saving for such independent school district, is hereby authorized to expend not more than fifty (50) per cent of the taxes assessed and collected by such independent school district for a period of years not to exceed four (4) from the date said bonds are refinanced and/or refunded for the purpose of paying warrants issued by such independent school district in payment of the premium originally realized upon the sale of said bonds, in the repurchase of the same for the purpose of refinancing and/or refunding said bonds, and for the purpose of paying the actual and necessary cost of refinancing and/or refunding said bonds, providing said warrants shall not bear interest at a greater rate than six (6) per cent per annum and provided further that no taxes assessed and collected shall be used for such purposes which shall be necessary to pay the interest and create a sinking fund on any outstanding bonds of such independent school district. [Acts 1937, 45th Leg., 1st C. S., H.B. # 50, § 1.]

Effective June 28, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing independent school districts in which there is situated a city with a population of not less than seven thousand, one hundred (7,100) and not more than seven thousand, two hundred (7,200), according to the last preceding Federal Census, to expend not more than

fifty (50) per cent of the taxes assessed and collected for a period not to exceed four (4) years, for the purpose of paying warrants issued in the payment of premium upon bonds refinanced and/or refunded by such independent school district at a less rate of interest and thereby create a saving, and in the payment of the actual and necessary cost of refinancing and of refunding said bonds; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. # 50.]

Art. 2792. [2862] County assessor for independent district

When a majority of the Board of Trustees of an Independent District prefer to have the taxes of their District assessed and collected by the County Assessor and Collector, or collected only by the County Tax Collector, same shall be assessed and collected by said County Officers and turned over to the Treasurer of the Independent School District for which such taxes have been collected. The property of such Districts having their taxes assessed and collected by the County Assessor and Collector may be assessed at a greater value than that assessed for County and State purposes, and in such cases the County Tax Assessor and Collector shall assess the taxes for said District on separate assessment blanks furnished by said District and shall prepare the rolls for said District in accordance with the assessment values which have been equalized by a Board of Equalization appointed by the Board of Trustees for that purpose. If said taxes are assessed by a Special Assessor of the Independent District and are collected only by the County Tax Collector, the County Tax Collector in such cases shall accept the rolls prepared by the Special Assessor and approved by the Board of Trustees as provided in the preceding Article. When the County Assessor and Collector is required to assess and collect the taxes of Independent School Districts he shall respectively receive one per cent (1%) for assessing, and one per cent (1%) for collecting same. [As amended Acts 1937, 45th Leg., S. B. # 467, § 1.]

Amendment of 1937, effective May 13, 1937.

Section 3 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

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Art. 2792a. Assessment at fair market value or intrinsic value

No property shall be assessed for taxes at a valuation greater than its fair market value, and if there is no market value, then no greater than its intrinsic value. [Acts 1937, 45th Leg., S.B. # 467, § 2.]

Effective May 13, 1937.

Art. 2797. Teachers' homes

Any Common School District or Independent School District, whether created by Special Act of the Legislature or by vote of the people, and any City or Town which has assumed control of its Public Schools, may issue serial coupon bonds in the same manner as provided by law for the issuance of other bonds to build and equip school houses and to purchase sites therefor, for the purpose of purchasing or building a teachers' home and for purchasing land in connection therewith, provided no bonds shall be issued to provide a home in a District employing fewer than two teachers in a single school; and no bonds shall be issued for such purpose except by a majority vote of the property taxpayers qualified to vote in such district. [As amended Acts 1937, 45th Leg., S.B. # 505, § 1.]

Amendment of 1937 effective May 15, 1937. the Act should take effect from and after its passage.

Section 2 of the amendatory act of 1937 declared an emergency and provided that

[Art. 2802e. Construction and mortgaging of gymnasias, stadia, etc. by independent districts authorized; self-liquidating]

Sec. 5. No contract, bond or note, or other evidence of indebtedness authorized to be issued or executed under this Act, shall be issued or executed after the expiration of the 31st day of the month of December, 1937. [Acts 1933, 43rd Leg., p. 330, ch. 130, as amended, Acts 1934, 43rd Leg., 2nd C.S., p. 88, ch. 36, § 1; Acts 1934, 43rd Leg., 4th C.S., p. 44, ch. 14, § 1; Acts 1937, 45th Leg., H.B. # 348, § 1.]

Amendment of 1937, effective June 9, 1937. declared an emergency and provided that the Act should take effect from and after its passage.

Section 2 of the amendatory act of 1937

Art. 2802g. Tax rate in independent district including city of 13,700 to 13,800

Section 1. In any Independent School District having and including within its limits a City or Town which, according to the then latest Federal Census, had a population of not fewer than thirteen thousand seven hundred (13,700) and not more than thirteen thousand eight hundred (13,800) inhabitants, the School District Trustees of the Independent School District, whether such Independent School District was created under the General Laws or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property of the District;

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such Districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty (50¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable property of the District, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of the bonds which such Districts are empowered to issue for such purpose.

(3) The amount of maintenance tax, together with the amount of bond tax of any such District shall never exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property within such District; and if the rate of bond tax, together with the rate of maintenance tax voted in the District shall at any time exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One and 50/100 (\$1.50) Dollars.

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by the majority of the votes cast at an election held in the District for such purpose, at which none but property taxpaying qualified voters of such District shall be entitled to vote.

Sec. 2. All Laws and parts of Laws, both General and Special, in conflict herewith are hereby repealed. [Acts 1937, 45th Leg., S.B. # 470.]

Effective May 1, 1937.

Section 3 of this act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied for school purposes in all independent School Districts which include within their limits a City or Town which

according to the latest Federal Census had a population of not fewer than thirteen thousand seven hundred (13,700), and not more than thirteen thousand eight hundred (13,800) inhabitants, whether organized under General or Special Law; repealing all laws in conflict herewith, both General and Special, and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 470.]

Art. 2802h. Maximum tax rate in independent districts including city or town having certain population

In any Independent School District having and including within its limits a city or town, which according to the latest Federal Census, contained a population of not less than three thousand nine hundred forty-three (3,943) and not more than three thousand nine hundred forty-five (3,945), the school district trustees of such Independent School District, whether such Independent School District was created under the General Laws or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property of the District;

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such Districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty (50¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable property of the School District, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such Districts are empowered to issue for such purpose;

(3) The amount of maintenance tax, together with the amount of bond tax of any such District shall never exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property within such Districts; and if the rate of bond tax, together with the rate of maintenance tax voted in the District shall at any time exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One and 50/100 (\$1.50) Dollars;

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the

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District for such purpose, at which none but property tax-paying qualified voters of such District shall be entitled to vote. [Acts 1937, 45th Leg., S.B. # 489, § 1.]

Effective May 15, 1937.

Section 2 of this act repeals all conflicting laws and parts of laws, both General and Special. Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied for school purposes in all In-

dependent School Districts which include within their limits a city or town which according to the latest Federal Census had a population of not less than three thousand nine hundred forty-three (3,943) and not more than three thousand nine hundred forty-five (3,945), whether organized under General or Special Law, repealing all laws in conflict herewith, both General and Special, and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 489.]

Art. 2802i. Tax rate in independent districts including city of 400 to 450 population in counties of 30,400 to 30,600 population

Section 1. In any independent school district having and including within its limits a city or town which according to the last Federal Census had a population of not less than four hundred (400) and not more than four hundred and fifty (450) inhabitants, and in counties having not less than thirty thousand four hundred (30,400) and not more than thirty thousand six hundred (30,600) inhabitants according to the last Federal Census, the school district trustees of the independent school district, whether such independent school district was created under the General Laws or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property of the district;

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Seventy-five (75¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purpose;

(3) The amount of maintenance tax, together with the amount of bond tax of any such district shall never exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and 50/100 (\$1.50) Dollars;

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property tax-paying qualified voters of such district shall be entitled to vote.

Sec. 1a. In any common school district wherein a public free school building may have burned or may burn or be destroyed by fire, such common school district being located within a county having a population of not less than thirteen thousand six hundred thirty (13,630), nor more than thirteen thousand six hundred ninety-nine (13,699), according to the last preceding or any future Federal Census, whether such com-

mon school district was created under the General Laws or any Special Law or Laws, the Commissioners' Court of such common school district shall have the power to levy and cause to be collected the annual tax herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property of the district;

(2) For the purchase, construction, repair, or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Seventy-five (75¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal on bonds which such districts are empowered to issue for such purpose;

(3) The amount of maintenance tax, together with the amount of bond tax of any such district shall never exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One and 50/100 (\$1.50) Dollars.

(4) No tax shall be levied, collected, abrogated, diminished, or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property tax-paying qualified voters of such district shall be entitled to vote; [Acts 1937, 45th Leg., 1st C.S., S.B. # 19.]

Effective July 7, 1937.

Section 2 repeals all conflicting laws and parts of laws, both General and Special. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied for school purposes in all independent school districts which include within their limits a city or town which according to the last Federal Census had a population of not less than four hundred (400) and not more than four hundred and fifty (450) inhabitants, and in counties having not less than thirty thousand four hundred (30,400) and not more than thirty thousand six hundred (30,600) inhabitants according to the last Federal

Census, whether organized under General or Special Laws; fixing the maximum of tax to be levied for school purposes in common school districts wherein a public free school building may have been destroyed by fire, or may be destroyed by fire, provided such districts lie within a county having a population of not less than thirteen thousand six hundred and thirty (13,630) nor more than thirteen thousand six hundred and ninety-nine (13,699) inhabitants according to the last preceding or any future Federal Census, whether such common school district was organized under General or Special Laws, repealing all laws in conflict herewith, both General and Special; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., S.B. # 19.]

5. ADDITIONS AND CONSOLIDATIONS

Art. 2806b. Validation of county line independent school districts formed by consolidation with contiguous common school districts

Section 1. That all county line independent school districts in this State heretofore attempted to be organized and established, and now functioning as such, and recognized by either State or county authorities as such school districts, and which were attempted to be organized and established by a vote of the people at an election held in each district

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affected for the purpose of consolidating an existing county line independent school district with an existing contiguous common school district, and at which election there was an affirmative vote in each school district in favor of such consolidation, are hereby validated in all respects, as though such district or districts had been duly and legally established in the first instance, notwithstanding the fact that such election on the question of consolidation so held in such existing independent school district or districts may have been ordered, notices thereof given, and the results thereof declared by a Board of Trustees of such existing county line independent school district or districts instead of by the Commissioners Court as provided by Article 2806 of the Revised Civil Statutes of Texas, of 1925.

Elections, tax levies, contracts, and other acts of Board of Trustees validated

Sec. 2. All acts of the Board of Trustees of any such school districts in connection with the ordering of an election or elections and declaring the results thereof, and in attempting or purporting to levy taxes for and on behalf of such school district or districts, and all contracts and other acts of such Board of Trustees, otherwise legal, heretofore made on behalf of such district or districts are hereby in all things validated.

Taxation

Sec. 3. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of taxes as is now being levied, assessed, and collected therein, and heretofore authorized or attempted to be authorized by any act or acts of said districts in the same manner as if said district or districts had been duly and legally authorized and established in the first instance.

Act inapplicable to districts in litigation before termination thereof

Sec. 4. This Act shall not apply to any district, the organization or creation of which is now involved in litigation; provided, however, if and when such litigation shall be finally terminated in a manner favorable to such district, then this Act shall apply thereto.

Partial invalidity

Sec. 5. If any part or Section of this Act shall be declared unconstitutional or invalid for any reason, such partial invalidity shall not affect the other provisions of this Act. [Acts 1937, 45th Leg., H.B. # 1119.]

Effective May 13, 1937.

Section 6 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the organization and creation of all county line independent school districts heretofore formed under certain conditions by the consolidation of an existing county line independent district with a contiguous common school district; validating all acts of the Board of Trustees of such existing county line independent school districts in ordering and declaring the results of an election or

elections held in such county line independent school districts on the question of such consolidation; validating all proceedings and acts of the Board of Trustees of such districts; validating all tax levies made in behalf of said districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate of tax as is now being levied, assessed, and collected therein, and heretofore authorized or attempted to be authorized by any act or acts of said districts; providing for certain exemptions; containing a saving clause; and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 1119.]

Art. 2808. Consolidation: Trustees

Contracts by trustees of common and consolidated districts with principals, su-

perintendents, and teachers, see art. 2750a, ante.

[6. DISTRICTS IN LARGE COUNTIES]

Art. 2815g—1a. Provisions of Act inapplicable to counties of over 290,000 and less than 320,000

Provided further that in all counties having more than two hundred and ninety thousand (290,000) and less than three hundred and twenty thousand (320,000) population according to the last preceding Federal Census, the provisions of the foregoing Articles, 2815a, 2815b, 2815c, 2815d, 2815e, 2815f, 2815g, and 2815g-1, shall not apply, and the provisions of said Articles shall be without force and effect.

In all said counties having more than two hundred and ninety thousand (290,000) and less than three hundred and twenty thousand (320,000) population according to the last preceding Federal Census, the members of the County Board of School Trustees of the public schools of the county shall receive Five Dollars (\$5) per day for their services in attending meetings, inspecting schools, and performing the duties imposed upon them by law, to be paid out of the General Fund of the county by warrants drawn on order of the Commissioners Court, after approval of the account by the County Superintendent. [Acts 1937, 45th Leg., H.B. # 205, § 1.]

Effective April 26, 1937.

Section 2 of this Act declared an emergency making the Act effective on and after its passage.

[Art. 2815g—3. Validation of school districts]

Acts 1936, 44th Leg., 3rd C.S., p. 2036, ch. 494, validated transfer of territory to the Line District of Dickens County and designated the boundaries of the district.
McAdoo Independent Consolidated County

Art. 2815g—10. Validation of consolidation of contiguous independent school districts

Section 1. That all attempts to consolidate contiguous independent school districts lying in two or more counties, or either of which lies in two or more counties, be and the same are hereby validated in all respects, as though their consolidation had been duly and legally provided for and established in the first instance.

Sec. 2. All acts of the County Commissioners' Court of any county in this State ordering an election for the consolidation of an independent school district in such county or in two or more counties, with a contiguous independent school district in an adjoining county, or in two or more counties, including all orders of the Commissioners' Court of said county or counties declaring the results of any such election, and including all proceedings of every kind and character leading up to or taken in connection with said election or elections are hereby in all things validated, and said consolidated districts shall hereafter be known as a Consolidated County Line Independent School District, and such Consolidated County Line Independent School District shall have and possess all the rights and powers granted to an independent school district by the Constitution and Laws of the State of Texas, and shall be governed, controlled and operated by the law governing independent school districts lying wholly in one county; however, the management and control of said Consolidated County Line Independent School District shall be under the existing Board of Trustees of the oldest independent school district involved in the consolidations of said independent school districts, until the next regular election of trustees for the inde-

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pendent school districts, as provided by General Law, at which time the said Consolidated County Line Independent School District shall elect a Board of seven trustees, whose powers, duties and terms of office shall be in accordance with the provisions of the General Law governing independent school districts, and the election for said trustees of said Consolidated County Line Independent School District shall be governed by the provisions of the General Law governing the election of trustees for independent school districts.

Sec. 3. The Board of Trustees having the management and control of said Consolidated County Line Independent School District is hereby authorized and empowered to levy, assess and collect the same rate of taxes as is now being levied, assessed and collected in each of said independent school districts, constituting a part of said Consolidated County Line Independent School District as theretofore authorized or attempted to be authorized by any act or acts of either of said independent school districts, until such rate of taxation is changed by an election in said Consolidated County Line School District, which election shall be held in accordance with the provisions governing such elections in independent school districts under the Constitution and Laws of the State of Texas.

Sec. 4. Provided that if any Section or part of the Section should be held unconstitutional it shall not affect the other provisions of this Act. [Acts 1937, 45th Leg., S.B. # 323.]

Effective April 5, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the consolidation of

contiguous independent school districts lying in two or more adjoining counties, and elections and proceedings in connection therewith, and to provide for their rights and powers as an independent school district, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #323.]

Art. 2815g—11. Validating districts in counties of 98,000 to 100,000

Section 1. That the actions of any County Board of Trustees in this State for the purpose of creating independent school districts are hereby in all things validated as though they had been duly and legally established in the first instance.

Sec. 1a. This Act shall apply only to those counties having a population of ninety-eight thousand (98,000) to one hundred thousand (100,000), according to the last preceding Federal Census, and that no part of this Act shall affect any litigation of any district now pending.

Sec. 1b. The acts of the County Board of Trustees shall not be valid except those acts that are passed by four-fifths majority of the Board itself. [Acts 1937, 45th Leg., H.B. # 1091.]

Effective May 5, 1937.

Section 2 of this Act declared an emergency making the Act effective on and after its passage.

Title of Act:

An Act validating the creation and organization of independent school districts; validating the actions of any County Board of Trustees with reference to the creation

of school districts out of another independent school district; making this Act applicable to certain counties according to the last preceding Federal Census; providing that no part of this Act shall affect any litigation now pending, and that only acts passed by four-fifths majority of the County Board of Trustees shall be valid, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1091.]

Art. 2815g—12. Validation of all school districts, acts of trustees, bonds, etc.

Section 1. All school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school dis-

tricts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, groups or annexations of whole districts or parts of districts by vote of the people residing in such districts or by action of County School Boards, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any county or by the Legislature of the State of Texas, and heretofore recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. All acts of the Boards of Trustees in such districts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school district, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any district was omitted shall in no wise invalidate such district, and the fact that by inadvertence or oversight any act was omitted by the Board of Trustees of any such district in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such district, or in the issuance of the bonds of any such district, shall in no wise invalidate any of such proceedings or any bonds so issued by such districts.

All acts of the County Boards of Trustees of any and all counties in rearranging, changing, or subdividing such school districts or increasing or decreasing the area thereof, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, are hereby in all things validated.

Provided, however, that no action or resolution purporting to transfer any territory from one district to another district, without an affirmative vote of the voters of the districts affected shall be validated by the passage of this Act.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax as is now being levied, assessed and collected therein and heretofore authorized or attempted to be authorized by any act, or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. This law shall not apply to any district, the organization or creation of which, or consolidation or annexation of any territory in or to such district was not submitted to a vote of the people residing in such district or districts or territories affected thereby, or which is now involved in litigation, or the validity of the organization or creation of which or consolidation or annexation of territory in or to such district is attacked in any suit or litigation filed within forty-five (45) days after the effective date of this Act. Provided further that this Act shall not apply to any district which may have been established or consolidated, and which was later returned to its original status.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section, or part of this bill shall be held by any court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act. [Acts 1937, 45th Leg., H.B. # 163.]

Effective May 23, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the organization and creation of all school districts, including common school districts, independent

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, whether created by General or Special Law or by County Boards of Trustees; providing no transfer of territory is validated by the Act unless authorized by an affirmative vote of voters in such district, and providing this Act shall not validate the organization or creation of any district, or consolidation or annexation of any district in or to such district where the same is now involved in litigation or where suit or litigation is filed with ref-

erence thereto within forty-five (45) days after the effective date of this Act; validating the Acts of said County Boards of Trustees and Boards of Trustees of such districts; validating all proceedings and Acts of said Boards of Trustees; validating all bonds voted, authorized and or now outstanding of said Districts; validating all tax levies made in behalf of said Districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate of taxes as is now being levied, assessed, and collected therein, and heretofore authorized or attempted to be authorized by any Act, or Acts of said Districts, or by any Act of the Legislature; making certain exemptions; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #163.]

Art. 2815g—13. Validating elections for establishing, consolidating, abolishing, or changing independent or common districts

Section 1. That all acts of County Boards of School Trustees in any County in this State in ordering an election for the purpose of laying out, establishing, combining, abolishing, or changing any independent or common school districts, are hereby in all things ratified, confirmed, and validated, and that all elections held in any County in this State for the purpose of laying out, establishing, combining, abolishing, or changing any such independent or common school districts, where the majority of the qualified voters, who voted in said elections, voted in favor of laying out, establishing, combining, abolishing, or changing any such independent or common school districts, are also in all things ratified, confirmed, and validated.

Provided, however, that no action or resolution purporting to transfer any territory from one district to another district, without an affirmative vote of the voters of the districts affected, shall be validated by the passage of this Act.

Sec. 2. This law shall not apply to any district or districts the laying out, establishing, combining, abolishing, or changing of which was not submitted to a vote of the people residing in such district or districts or territories affected thereby, or which may now be involved in litigation; provided, however, that any contest may be filed within a period of forty-five (45) days after the effective date of this Act, as to the validity of any change attempted to be made by said district or districts, the same as though this Act had not been passed. [Acts 1937, 45th Leg., 1st C.S., H.B. # 68.]

Effective July 6, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act ratifying, confirming, and validating all acts of County Boards of Trustees in ordering an election for the purpose of laying out, establishing, combining, abolishing, or changing any independent or common school districts, and all elections held in any County in this State for the purpose of laying out, establishing, com-

binning, abolishing, or changing any such independent or common school districts; providing limitations for the ratifying, confirming, or validating of school districts under this Act; providing that this Act shall not affect districts which may be involved in litigation at the effective date of this Act; providing that contests may be filed within forty-five (45) days after the effective date of this Act; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. # 68.]

Art. 2815g—14. Validation of school district bonds containing irregularity as to maturity date

Section 1. That all bonds heretofore voted and issued or heretofore voted and not yet issued, by any common school district, common consolidated school district, rural high school district, or independent school district, regardless of maturity date of the same and regardless of the fact that same do not become due in serial annual installments, are hereby in all things validated.

Sec. 2. It is the intention of the Legislature to only validate those bonds voted by school districts wherein there exists an irregularity with reference to the maturity date. It is not the intention to validate any other irregularity of bonds voted by such school districts.

Sec. 3. This law shall only apply in cases where in all other respects an election was properly held in conformity to the law, and it is expressly provided that all bonds herein validated must mature in not more than forty (40) years.

Sec. 3a. The provisions of this Act shall not apply to such bonds and such districts which are in litigation, at the effective date of this Act. [Acts 1937, 45th Leg. 2nd C.S., H.B. #73.]

Effective Nov. 3, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating, ratifying, and confirming all bond issues heretofore voted and issued, or which have been voted and not yet issued, of all common school districts, common consolidated school districts, rural high school districts, and

independent school districts, regardless of whether said bonds mature in serial annual installments or not; declaring legislative intent with reference to bonds validated; providing bonds validated must mature in not more than forty (40) years; providing the Act shall not apply to bonds in such districts which are in litigation at the effective date of the Act; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 73.]

Art. 2815g—15. Validation of acts of trustees in creating, etc., school districts in counties not exceeding 11,400 population

Section 1. That all common school districts, common consolidated school districts, independent school districts, and rural school districts heretofore created, defined, or redefined since June 1, 1936, by the County Board of Trustees of the County wherein such school districts are located including those independent school districts to which territory detached from common school districts has been annexed by the County Board of Trustees of the County in which said school districts are located, are hereby in all things validated, regardless of the fact that they were not properly created, defined, or redefined, or enlarged by such annexation in the first instance, and regardless of the fact that there exists no record of their prior creation, and the acts of such County Boards in creating, defining, redefining, or attaching additional territory to such districts are hereby in all things validated, in counties having a population not exceeding eleven thousand, four hundred (11,400), according to the last preceding United States Census.

Sec. 2. The fact that by inadvertence or oversight there might be some irregularity in the creation or redefining of such district shall in nowise affect its status as a school district. Said school district shall be known and designated by the name given to it by the County Board of Trustees and shall be governed by the law governing the administration of school districts of the same name.

Sec. 2-a. This law shall not apply to any district, the organization or creation of which is now involved in litigation, or concerning which the validity of the organization or creation, or consolidation, or annexation of territory in or to such district is attacked in any suit or litigation, filed

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within forty-five (45) days after the effective date of this Act. Provided further, that this Act shall not apply to any district which may have been established, and which has later returned to its original status and has been so recognized by the proper authorities; provided, however, if and when any such litigation shall be finally terminated, in a manner favorable to such district, then this Act shall apply thereto. [Acts 1937, 45th Leg., 2nd C.S., H.B. #74.]

Effective Nov. 3, 1937.

Title of Act:

An Act validating, ratifying, and confirming the acts of the County Boards of Trustees in creating, defining, redefining, or attaching additional territory to common consolidated school districts, common school districts, independent school dis-

tricts, and rural high school districts, since June 1, 1936, in counties having a population of not more than eleven thousand, four hundred (11,400), according to the last preceding Federal Census; providing exceptions; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. #74.]

Art. 2815g—16. Validation of districts created by joining county line and contiguous districts

Section 1. All school districts heretofore attempted to be established by the annexation or joining of a part of a county line common school district to a contiguous school district after an election held in said common school district for the purpose of dividing it and/or annexing or joining a part or parts thereof to a contiguous district or districts, whether by order of a county board of school trustees or a County Commissioners Court, are hereby ratified, confirmed, and validated in all respects, provided, however, that said election shall have resulted in favor of division and/or annexation or joining, and provided further that the order of annexation or joining shall be in accordance with the terms of the order calling said election respecting a division and/or annexation or joining; and provided further that such order shall have been made by a county board of school trustees or Commissioners Court of a county containing a part of said county line common school district, and in addition thereto, a part or all of the district to which a part of said county line common school district is annexed or joined. Wherever a part of such county line common school district has been annexed or joined by such an order to a contiguous county line rural high school district, the newly established district shall exist and function under the laws governing county line rural high school districts and shall hereinafter be included within the term county line rural high school district.

Sec. 2. All elections called in the districts validated by Section 1 of this Act to authorize the issuance of bonds for a lawful purpose or to authorize the assumption by the entire district of any indebtedness lawfully chargeable against a part only of such districts, are hereby ratified, confirmed, and validated where a majority of those qualified to vote and voting in such elections voted in favor of the issuance of such bonds, or assuming such indebtedness. All bonds issued pursuant to said elections and now outstanding and all bonds voted at such elections but not yet issued are likewise validated.

Sec. 3. This law shall not apply to any district, the organization or creation of which is now involved in litigation, nor shall it apply to any act of any district mentioned herein, nor to any tax levy, nor any item of indebtedness, either of which is now involved in litigation, nor shall it apply to any district which may have been established and later returned to its original status and which has been so recognized by the proper authorities.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section, or part of this bill shall be held by any Court of competent jurisdiction

to be invalid as unconstitutional, or for other reasons, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act. [Acts 1937, 45th Leg., 2nd C.S., H.B. #142.]

Effective Nov. 2, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate school districts attempted to be established by the annexation or joining of a part of a county line common school district to a contiguous school district after an election held in said common school district to divide it and/or annex or join a part or parts thereof to a contiguous district or districts whether by order of a county board of school trustees or of a County Commissioners Court where said election resulted favorably to division and/or annexation or joining and said order of annexation or joining was in accordance with the terms of the order calling said election pertaining to said division and/or annexation, and where said order was made by county board or Commissioners Court of a county containing a part of said county line common school district, and in addition thereto a part or all of the district to which

a part of said county line common school district was annexed or joined; providing that a district established by annexing or joining a part of said county line common school district to a contiguous county line rural high school district shall exist and function under the laws governing county line rural high school districts; validating elections held in districts validated herein to issue bonds for a lawful purpose or assuming indebtedness lawfully chargeable against a part only of such districts; to validate all bonds issued pursuant to said elections and now outstanding and all bonds voted thereat but not yet issued, exempting from this Act districts, obligations, tax levies, and district acts now involved in litigation, and likewise exempting from the operation of this Act districts returned to their original status, and recognized as such by the proper authorities; providing that the unconstitutionality or other invalidity of any part of this Act shall not affect the remainder thereof; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 142.]

Art. 2815g—17. Validation of election of trustees in independent districts

Section 1. Elections heretofore held in independent school districts created by Special Act or Acts of the Legislature of the State of Texas which provided for a Board of five (5) trustees in such district or districts, to elect seven (7) trustees for such districts, are hereby ratified, confirmed, and validated. The Board of Trustees elected at such elections is hereby constituted the Board of Trustees for such district or districts, and such district or districts shall hereafter elect seven (7) trustees instead of five (5), in accordance with the provisions of the General Law governing the election of seven (7) trustees in independent school districts, under which they are now acting.

Sec. 2. All bonds voted by such districts and not yet issued and all bonds issued by such districts and now outstanding are hereby validated. All tax levies made by such Board or Boards of Trustees for and on behalf of such districts and the assessment and collection thereof, are hereby validated.

Sec. 3. All other acts of such Boards of Trustees done under any law authorizing the legally constituted Boards of Trustees of such districts to so act are hereby ratified, confirmed, and validated, it being the intent of this provision to validate only those acts which were legal in all respects, excepting as they might have been made invalid by the fact that such Board consisted of more than five (5) members.

Sec. 4. This Act shall not be construed as obviating any Constitutional requirement of an election, nor shall it be construed as applying to any school district which the Legislature was not constitutionally authorized to create by Special Act, nor shall it apply to any school district mentioned herein which now purports to elect only five (5) trustees.

Sec. 5. This Act shall not apply to any bonds or to any tax levies or any acts of such Board or Boards of Trustees which are now the sub-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ject matter of litigation, nor shall it be construed as validating the creation or organization of any district which is now involved in litigation.

Sec. 6. If any word, phrase, clause, sentence, paragraph, section, or part of this bill shall be held by any Court of competent jurisdiction to be invalidated as unconstitutional, or for other reasons, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act. [Acts 1937, 45th Leg., 2nd C.S., H.B. #161.]

Effective Oct. 29, 1937.

Section 7 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate elections held to elect seven (7) trustees in independent school districts created by Special Act providing for a Board of five (5) trustees in such districts; providing that the Board of Trustees elected at such elections is hereby constituted the Board of Trustees for such districts; providing that such districts shall hereafter elect seven (7) trustees in accordance with the provisions of the General Law governing the election of seven (7) trustees in independent school districts, under which they are now acting; validating bonds voted by such districts but not yet issued and all bonds issued by such districts and now outstanding; validating all tax levies made by such Board

or Boards of Trustees on behalf of such districts and the assessment and collection thereof; validating all other acts of such Boards of Trustees done under any law authorizing the legally constituted Boards of Trustees of such districts to so act; providing that it shall not be construed as obviating any constitutional requirement of an election nor as validating any district which the Legislature was not authorized to create by Special Act, nor as applying to any district now electing only five (5) trustees; providing that it shall not apply to bonds or tax levies or other acts of such Boards of Trustees now the subject matter of litigation, or to the creation or organization of districts now involved in litigation; providing that the invalidity of any part of this Act shall not affect any other part thereof; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 161.]

Art. 2815g—18. Validation of independent district elections assuming indebtedness apportioned against districts

Section 1. In every instance wherein an election has been held heretofore in any Independent School District upon the question of assumption of indebtedness theretofore apportioned against such district or a part thereof, as a result of its segregation, or the segregation of the part thereof from another Independent School District, such apportionment having been approved by the County Board of Trustees of the County in which said District is located, whether the indebtedness so assumed be the identical proportionate part of the indebtedness owed by the original District as of the time of the segregation or an equal amount of indebtedness incurred by a portion of the original District after such segregation, where a majority of the legally qualified voters voting at such assumption election voted in favor of the assumption of such indebtedness and the governing board of such District has canvassed the returns of such election and declared the results thereof, the act of the governing board calling said election, the act of the voters in voting to assume such indebtedness, and the act of the governing body thereof in canvassing the returns of such election and declaring the results thereof, are each and all hereby expressly validated. The indebtedness thus attempted to be assumed at each such election is hereby declared to be the indebtedness of such District, and the duty is hereby imposed upon the governing body thereof to levy and collect annually against all taxable property therein a tax sufficient to pay interest as it accrues and to pay the principal as it matures.

Sec. 2. All proceedings heretofore had by the governing body of such District for the issuance of bonds to refund indebtedness thus assumed are hereby validated, and such refunding bonds when issued, approved by the Attorney General of the State of Texas, and registered by the Comptroller of Public Accounts, shall constitute legal and binding obligations of such District.

Sec. 3. Any Independent School District affected by the preceding sections of this Act, and any Independent School District from which all or a part of the territory comprising such Independent School District was detached, may issue interest bearing time warrants for the purpose of paying expenses incident to the refunding of its outstanding bonds, provided that such warrants and the interest thereon shall not exceed the saving in interest effected by the issuance of such refunding bonds.

Sec. 4. Provided, however, that no action or resolution purporting to transfer any territory from one district to another district, without an affirmative vote of the voters of the districts affected shall be validated by the passage of this Act.

Provided further, this law shall not apply to any district, the organization or creation of which, or consolidation or annexation of any territory in or to such district was not submitted to a vote of the people residing in such district or districts or territories affected thereby, or which is now involved in litigation, or the validity of the organization or creation of which or annexation or consolidation of territory in or to such district is attacked in any suit or litigation filed within forty-five (45) days after the effective date of this Act. Provided further, that this Act shall not apply to any district which may have been established or consolidated, and which was later returned to its original status. [Acts 1937, 45th Leg., 2nd C.S., S.B. #11.]

Effective Oct. 26, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating Independent School District elections assuming indebtedness theretofore apportioned against such districts or a part thereof as a result of its segregation from another Independent School District whether the indebtedness so assumed be the identical proportionate part of the indebtedness owed by the original district at the time of its segregation or an equal amount of indebtedness incurred by a portion of the original district after such segregation; declaring the indebtedness thus assumed to be indebtedness of such district; imposing duty upon the governing boards of districts assuming such indebtedness to levy and collect taxes

to pay principal and interest; validating proceedings heretofore had for the issuance of bonds to refund indebtedness so assumed; declaring that such refunding bonds when issued, approved by the Attorney General, and registered by the Comptroller, shall constitute legal and binding obligations of the district; providing no transfer of territory is validated by the Act unless authorized by an affirmative vote of voters in such district, and providing this Act shall not validate the organization or creation of any district, or consolidation or annexation of any district in or to such district where the same is now involved in litigation or where suit or litigation is filed with reference thereto within forty-five days after the effective date of this Act; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 11.]

7. JUNIOR COLLEGES

[Art. 2815h. Junior college districts]

Control of college established

Sec. 4. A Junior College established and maintained by an Independent School District or city that has assumed control of its schools, or where the same has been organized as a Junior College District under the provisions of this Act prior to October 15, 1935, as an independent entity, or may hereafter be so created, and/or wherein the boundaries of the Junior College District are the same, or substantially the same, as the Independent School District, shall be governed, administered, and controlled by and under the direction of the Board of Education of such District or city.

"The said Board of Education of such Junior College District, under the provisions of this Act, shall in addition to all of the powers and du-

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ties vested in them by the terms of this Act, be furthermore vested with all the rights, powers, privileges, and duties conferred and imposed upon Trustees of Independent School Districts by the General Laws of this State, so far as the same may be applicable thereto and not inconsistent with this Act. [As amended Acts 1937, 45th Leg., H.B. # 512, § 1.]

Amendment of 1937, effective April 9, 1937. laws and section 10 declares an emergency making the act effective on and after its passage.

Section 9 of the amendatory act of 1937 repeals all conflicting laws and parts of

District bond issues and taxes

"Sec. 7. The Junior College District created under this Act shall have the power to issue bonds for the construction and equipment of school buildings and the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection. The Junior College District shall also levy and collect taxes for the support and maintenance of the Junior College, provided that no bonds shall be issued and no taxes shall be collected until by vote of the majority of the qualified voters of the Junior College District, at an election called for that purpose in accordance with the provisions of the General Law providing for similar elections in Independent School Districts, such bonds and taxes are authorized. The election for the issuance of such bonds for the levying of such tax or taxes, shall be ordered by the Board of Education of the Junior College upon petition signed by ten (10) per cent of the qualified property-taxpaying voters residing in such District, praying for the issuance of such bonds and the levying of tax or taxes. It shall be the duty of the Board to order such elections, and the same shall be conducted and the returns made to the Board of Education for the Junior College District. The issuance of the bonds for Junior College purposes, and the provision of the sinking fund for the retirement thereof, and the payment of interest and the levying of taxes for the support and maintenance of the Junior College, shall in so far as same is applicable, be in accordance with the general election laws and the laws governing the issuance of bonds and the levying of taxes in the Independent School District, provided the total amount of tax levied for Junior College purposes shall never exceed twenty (20) cents on the One Hundred Dollars of property valuation within said District, based on the valuation fixed by the Board of Equalization of the Junior College District; provided further that if no taxes have been assessed and equalized in said Junior College District at the time of the issuance of such bonds, then the basis shall be the valuation in the Independent School District. If its boundaries are not the same, then such valuation shall be based on the valuation fixed by the Commissioners Court for State and County taxes in such County within the limits of the Junior College District. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 1990, ch. 480, § 1; Acts 1937, 45th Leg., H.B. # 512, § 2.]

Amendment of 1937, effective April 9, 1937.

Maintenance of existing college

Sec. 7a. The Board of Trustees of any single Independent District in which a Junior College shall have already been created and which, under the provision of this Act, shall be under the control of such Board of Trustees may set aside for the maintenance of said college, not to exceed twenty per cent (20%) of the taxes collected in said district as theretofore authorized by a vote of the people residing in said district, in the manner provided by law, without the requirement of an election to be

held in said district for the purpose of voting taxes for the maintenance of said college, provided, however, that the total amount of taxes levied in said district for the maintenance of the public schools therein situated, including said Junior College, shall not exceed the highest amount now allowed, or which may hereafter be allowed by law for the maintenance of schools in an Independent School District of this State; and, provided further, that this section shall apply only to those districts which had been using such funds for Junior College purposes prior to October 1, 1936. [Acts 1929, 41st Leg., p. 648, ch. 290, § 7a, as added Acts 1936, 44th Leg., 3rd C.S., p. 1990, ch. 480, § 2.]

Effective Oct. 22, 1936.

Section 3 of the Amendatory Act of 1936 declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1936, 44th Leg., 3rd C.S., p. 1990, ch. 480, § 2, purported to add a new section 7a to Acts 1929, 41st Leg., p. 648, ch. 290, but contained provisions identical with

section 8 of the same Act except the proviso "that this section shall apply only to those districts which had been using such funds for Junior College purposes prior to October 1, 1936" which was added by the Act of 1936.

Another section 7a was added to this article by Acts 1937, 45th Leg., S.B. #512, § 3. See section 7a, post, under this article.

"Sec. 7a. The Assessor and Collector of such Junior College District shall assess the taxes and collect the same in the manner now provided by law for the collection of ad valorem taxes by County Assessors and Collectors and where there is not herein contained any specific provision or direction as to how anything connected with the assessment and collection of taxes shall be done, then the provisions of the General Law shall prevail. The Board of Education of said District shall have the power, and is hereby authorized to appoint three resident citizens of the said District to act as a Board of Equalization to equalize the values of all property subject to taxation in said District and said Board shall qualify in the same manner and shall perform the same duties as is authorized to be performed by the Board of equalization appointed by the City Council of Cities and towns incorporated under the General Laws of this State.

All taxes provided for by this Act shall become due and payable on the same date as the taxes in the Independent School District provided the boundaries of the Junior College District are coterminus with the Independent School District. If the boundaries of the Junior College District are not coterminus with the Independent School District, then the taxes of said District shall become due and payable on the same date as is provided for taxes due to State and County. Said taxes shall be and remain a first and prior lien upon all the land and other property against which the same were assessed. In case such tax shall become delinquent there shall be added the same penalty and the same shall draw interest at the same rate and from the same date as is provided in case of taxes becoming delinquent to Independent School Districts under the General Laws. [Acts 1929, 41st Leg., p. 648, ch. 290, § 7a as added Acts 1937, 45th Leg., H.B. # 512, § 3.]

Amendment of 1937, effective April 9, 1937.

Another section 7a was added to this article by Acts 1936, 44th Leg., 3rd C.S., p. 1990, ch. 480, § 2. See section 7a, ante, under this article.

Assessment, equalization and collection of taxes

Sec. 7b. In lieu of the manner of assessment and collection of taxes, as provided in Section 7a, the Board of Education of such Junior College District may provide for the assessment, equalization, and collection of taxes in the manner following, to wit:

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(a) If the boundaries of said Junior College District shall be the same or substantially the same, as that of an Independent School District, having an Assessor and Collector of Taxes then such District may have the taxes of their District assessed and collected by the Assessor and Collector of Taxes of such Independent School District and have such taxes equalized by the Board of Equalization of such Independent School District.

(b) Where a city has assumed control of its schools and uses the Assessor and Collector of Taxes appointed and paid by the city is hereby authorized to have their taxes assessed, equalized, and collected by the same Board that assesses, equalizes, and collects city taxes.

(c) The Board of Education of such Junior College District, if they prefer to do so, may have the taxes of their District assessed and collected by the Assessor and Collector of County Taxes in the County in which said District shall be situated, or collected only by the Assessor and Collector of County Taxes, and in such event, such taxes shall be assessed and collected by said County officers, as the case may be, and turned over to the Treasurer of the Junior College District for which such taxes have been collected. The property of such Districts having their taxes assessed and collected by the Assessor and Collector of County Taxes shall not be assessed at a greater value than that assessed for County and State purposes. If said taxes are assessed by a Special Assessor of the Junior College District, or shall be assessed by the Special Assessor of the Independent School District in the manner above set out and are collected only by the County Tax Collector, the property of said District may be assessed at a greater or less value than that assessed for State and County purposes and the Assessor and Collector of County Taxes in such cases shall accept the rolls prepared by the Special Assessor or by the Assessor of the Independent School District, as the case may be, and approved by the Board of Education, as provided in this Section. When the Assessor and Collector of County Taxes is required to assess and collect the taxes of a Junior College District, he shall receive the same percentage as for State and County Taxes. [Acts 1929, 41st Leg., p. 648, ch. 290, § 7b, as added Acts 1937, 45th Leg., H.B. # 512, § 3.]

Amendment of 1937, effective April 9, 1937.

Amount of tax levy

Sec. 9. The Board of Education of the Junior College District shall levy taxes for such District and in levying such taxes shall base the amount levied on the amount of money needed, with a reasonable margin for loss and expenses in collecting same, and shall furnish a copy of the order making such levy to the Assessor and Collector of Taxes for the Junior College District, or to such other agency to whom the assessment of such taxes shall be entrusted as above provided. [As amended Acts 1937, 45th Leg., H.B. # 512, § 4.]

Amendment of 1937, effective April 9, 1937.

Collection of taxes and report

Sec. 10. In case the tax levy necessary to meet the needs of the Junior College District is within the limit of twenty (20) cents prescribed by this Act and voted by the Junior College District, it shall be the duty of the assessing authority, as above indicated, to assess taxes for Junior College purposes, and it shall be the duty of the Collector of Taxes to collect the same. The Tax Assessor and Collector of the Junior College District, or other agency entrusted with the collection of such

taxes, as hereinabove provided, shall, on or about the tenth of each month or at such other times as may be prescribed by the Board of Education of said District, make a report to the Junior College Board of Education showing all moneys collected by him during the past month for Junior College purposes and shall each month place such funds with the Treasurer of the Junior College District where such Junior College District is a separate and distinct entity, or to the Independent School District or city, where such Junior College District is operated by the Independent School District, or the city, as the case may be, to the credit of the Junior College fund, such funds to be drawn upon by action of the Junior College Board of Education, or other governing body, as the case may be. [As amended Acts 1937, 45th Leg., H.B. # 512, § 5.]

Amendment of 1937, effective April 9, 1937.

Bond of tax collector

Sec. 11. The Assessor and Collector of Taxes for the Junior College District shall enter into a bond with two or more good and sufficient sureties or surety bond for the protection of the Junior College fund, said bond to be made payable to the Board of Education of the Junior College District and to be made in a sum not less than double the amount of money which may be in his hands at any time while in office. The amount of said bond will be fixed by the Board of Education of the Junior College District and a copy filed with the State Board of Education. The Junior College Board shall require a similar bond of any and all other persons or corporations in whose possession such funds may be kept.

The Board of Education of the Junior College District shall have the right to select and designate a depository for such District and the General Laws pertaining to County depositories, so far as applicable, shall govern in the selection of the District depository, and with respect to the depository bond, and the like. [As amended Acts 1937, 45th Leg., H.B. # 512, § 6.]

Amendment of 1937, effective April 9, 1937.

School funds not available for maintenance; penalty for use

Sec. 14. No funds received for school purposes from the State Available School Fund or raised by local taxation for school purposes under the General or Special Laws, except as in this Act specifically provided, or except as may be hereafter provided by the Legislature of the State of Texas, shall be used for the establishment, support, and maintenance of the Junior College. [As amended Acts 1937, 45th Leg., H.B. # 512, § 7.]

Amendment of 1937, effective April 9, 1937.

Maintenance of Union Junior College by contiguous districts

Sec. 17. Two or more contiguous independent school districts or two or more contiguous common school districts, or a combination composed of one or more independent school districts, with one or more common school districts of contiguous territory within the same county, having a combined taxable wealth of not less than Nine Million Five Hundred Thousand (\$9,500,000.00) Dollars, and having a scholastic population of not less than seven thousand (7,000) the next preceding school year, and not less than four hundred (400) students in the last four years in the classified high school or high schools of said districts may, by vote of the qualified voters of the said territory, establish and maintain a Union Junior College. Any county or combination of contiguous counties in

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the State, having a taxable property valuation of not less than Nine Million Five Hundred Thousand (\$9,500,000.00) Dollars, and having a scholastic population of not less than seven thousand (7,000) the next preceding school year, and not fewer than four hundred (400) students in the last four years of the classified high school or high schools within the proposed territory during the next preceding school year, may, by vote of the qualified voters of the proposed territory, establish and maintain a county or joint county Junior College. [As amended Acts 1935, 44th Leg., p. 140, ch. 57, § 1; Acts 1937, 45th Leg., S.B. # 227, § 1.]

Effective March 25, 1937. the act should take effect from and after
Section 2 of the amendatory act of 1937 its passage.
declared an emergency and provided that

Scholastic enrollment of proposed district

Sec. 17(a). Provided the proposed District may have less than seven thousand (7,000) scholastic enrollment, but not less than five thousand (5,000) in the next preceding school year, and where the State Board of Education finds that the proposed District is in a growing section, and that there is a public convenience and necessity for such Junior College. [Acts 1929, 41st Leg., p. 648, ch. 290, § 17(a), as added Acts 1937, 45th Leg., S.B. # 227, § 1.]

Effective March 25, 1937.

County tax collector to collect tax

Sec. 22. All taxes levied for a County or joint County Junior College District shall be assessed and collected in the manner provided in Sections 7b and 7c and such Collector each month shall place such funds with the Treasurer of such County or joint County College District. [As amended Acts 1937, 45th Leg., H.B. # 512, § 14.]

Amendment of 1937, effective April 9,
1937.

Art. 2815h—1. Validation of Junior College Districts

All Junior College Districts heretofore organized and created in any manner under the provisions of the Acts of the Forty-first Legislature, 1929, Page 648, Chapter 290,¹ and/or under any amendment thereof, are hereby validated in all respects as though they had been duly and legally established in the first instance. All proceedings and acts of the board of trustees of all independent school districts heretofore taken by such boards of trustees in creating or undertaking to create Junior College Districts are likewise hereby validated in all respects as though they had been duly and legally established in the first instance. All proceedings and acts of boards of trustees, boards of education, or other governing bodies of Junior College Districts heretofore taken are here now validated. All bonds heretofore voted, authorized, and/or sold and/or now outstanding of said Districts and all bonds heretofore voted but not yet issued are hereby in all things validated.

The fact that by inadvertence or oversight any act of the officers of any District was omitted shall in no wise invalidate such District and the fact that by inadvertency or oversight any act was omitted by any board of trustees, board of education, or other governing body of any such District in ordering an election, or elections, or in declaring the result thereof or in levying the taxes for such District, or in the issuance of the bonds of any such District shall in no wise invalidate any of such proceedings, or any bonds so issued by such District.

This Act shall not apply to any District, the organization or creation of which is now involved in litigation, nor shall this Act apply to or

affect any litigation now pending which involves the validity of such District, or the validity of any bonds issued or undertaken to be issued by it. [Acts 1937, 45th Leg., H.B. # 507, § 1.]

1 Article 2815h.

Effective March 25, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the organization and creation of all Junior College Districts created in any manner under the provisions of the Acts of the Forty-first Legislature, 1929, Page 648, Chapter 290, and/or under any amendment thereof; validating all proceedings and acts of the board of trustees of all independent school districts hereto-

fore taken by such boards of trustees in creating or undertaking to create Junior College Districts; validating all proceedings and acts of boards of trustees, boards of education, or other governing bodies of Junior College Districts heretofore taken; validating all bonds voted, authorized and/or sold and/or now outstanding of said Districts; validating all tax levies made in behalf of said College Districts; making certain exceptions, and validating certain Independent and Junior College School Districts and tax assessments and tax levies in such districts; and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 507.]

Art. 2815h—2. Validation of independent school districts constituting Junior College Districts

The creation and existence of all Independent School Districts which also constitute a Junior College District, and which have been enlarged since the creation of such Junior College District, hereby are in all things validated as enlarged and as now existing and operating; and the creation and existence of such Junior College Districts as enlarged and as now existing and operating, hereby are in all things validated; and all tax assessments and tax levies by such Independent School Districts or Junior College Districts, hereby are in all things validated. [Acts 1937, 45th Leg., H.B. # 507, § 1-a.]

Effective March 25, 1937.

Emergency section. See note under article 2815h-1, ante.

CHAPTER FIFTEEN—SCHOOL FUNDS

Art. 2835a. State Board may exact certain duties of districts, cities, and towns which have assumed control of schools, and whose bonds are owned by Permanent School Fund

Section 1. The State Board of Education may require any school district, or any city or town which has assumed the control of public schools located therein, school bonds of which are owned by the State Permanent School Fund, and which may be entitled to receive moneys from the Available State School Fund, or for Rural Aid, and which is in default for a period of two (2) years as to the payment of principal or of interest or both, of any outstanding school bond issue of such district, city or town, to levy a tax sufficient to pay the principal and interest of its bonds as such principal matures and as such interest accrues; provided, if any such district, city or town shall furnish to the State Board of Education satisfactory proof that its taxing ability is insufficient to provide money enough to pay principal and interest of its bonds according to their tenor and effect, then in the alternative, the Board may require such district, city or town to exhaust its legal remedies in the matter of collecting its taxes then delinquent, and to levy a tax at the maximum rate for bond purposes permitted under the law applicable to it, based on the assessed valuation of taxable property therein, duly and fairly ascertained in the manner required by law; that when such taxes shall have been so levied and collected, each holder of its

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bonds including the State of Texas, shall be entitled to receive a proportionate part of the money thus collected based on the requirements for principal and interest of the bonds owned by each holder calculated on the basis of original bonds before refunding operations, if any, occasioned because of the embarrassed financial condition of such district, city or town; that the proportionate part to be available to each holder shall not be reduced by reason of acceptance by said holders of refunding bonds.

Default in payments of principal or interest of bonds

Sec. 2. If any such district, city or town defaults in the payment of principal or interest on its bonds for a period of two years held by the State Permanent School Fund, the Comptroller of Public Accounts shall not issue any warrants to or for the benefit of such district, city or town for the payment of the Available School Fund or for Rural Aid; provided that at such time as the Comptroller shall have received a certificate executed by the President and Secretary of the State Board of Education to the effect that such district, city or town has complied with the requirements of the State Board of Education as to the levying and collecting and distributing of taxes as more fully described in Section 1 of this Act, then in that event the Comptroller of Public Accounts shall resume making such payments to or for the benefit of such district, including the making of pretermitted payments.

Authority of State Board during period of delinquency

Sec. 3. So long as any such district, city or town is delinquent in its payments of principal or interest or both, the State Board of Education shall have authority to specify the method of crediting payments to the State made by such District, city or town as to principal or interest.

Duties and rights cumulative

Sec. 4. The duties imposed and the rights conferred by this Act shall be cumulative of all other duties heretofore imposed and rights heretofore conferred and shall not be considered to be in substitution thereof.

Partial invalidity

Sec. 5. In event any provisions of this Act shall be in conflict with the provisions of any other Act, the provisions contained in this Act shall prevail. In event any sentence, clause or provision contained in this Act shall be invalid, such partial invalidity shall not affect the other provisions of this Act. [As amended Acts 1937, 45th Leg., S.B. # 113, § 1.]

Amendment of 1937, effective May 13, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER SIXTEEN—FREE TEXTBOOKS

1. TEXTBOOK COMMISSION

Art.
2843a. Text books on reading of music
[New].

1. TEXTBOOK COMMISSION

Art. 2843a. Text books on reading of music

Resolved by the Senate of the State of Texas, the House of Representatives concurring, that it was and is now the intention of the Legisla-

ture to include among the text books authorized to be selected and adopted by the State Board of Education, text books on the reading of music and that the reading of music is included in the subjects authorized to be taught in the public free schools of Texas; and, be it further

Resolved that such is the legislative construction to be placed on the statutes governing the selection of text books in the public free schools of Texas. [Acts 1936, 44th Leg., 3rd C.S., p. 2114, S.C.R. # 2.]

Art. 2844a. German, Czech and French language text books; commercial arithmetic and bookkeeping in English; junior high schools

Section 1. The State Textbook Commission shall adopt a multiple list of not fewer than three (3) nor more than five (5) textbooks for use in the public high schools in teaching the German, Czech, and French languages; and also there shall be added to the free list of textbooks commercial arithmetic and bookkeeping in the English Language.

Sec. 2. The State Textbook Commission is hereby empowered to adopt single basal textbooks of a type suitable for junior high schools, provided seven-ninths of the Commission approve the policy; the adoption of the text to be made by six (6) votes as in other adoptions and provided further, that such junior high school textbooks shall be furnished free only to such school systems as maintain junior high school organizations, as certified by the proper school authorities to the State Board of Education. [As amended Acts 1935, 44th Leg., p. 381, ch. 142, § 1; Acts 1937, 45th Leg., H.B. 87, § 1.]

Amendatory act of 1937 effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of

laws. Section 3 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER NINETEEN-A—RURAL HIGH SCHOOLS

Art.

2922a—1. Validating consolidated rural high school districts [New].

2922aa. Consolidation of rural high school

Art.

districts and common school districts authorized [New].

2922i(2). Validation of county line rural high school districts [New].

Art. 2922a—1. Validating consolidated rural high school districts

All Consolidated Rural High School Districts heretofore created or attempted to be created by an act of the County Board of Trustees in creating or attempting to create Consolidated Rural High School Districts out of a district or districts that had been theretofore a Consolidated Common School District or districts are hereby validated in all respects as though they had been duly and legally established in the first instance; all acts of the Board of Trustees of such districts in ordering and holding elections and declaring the results thereof, and levying taxes therefor, all bonds issued and outstanding and all tax levies made therefor, and all tax assessments, assessment rolls, and tax rolls of such districts, and all bonds heretofore authorized and voted but not yet issued by such districts are hereby validated, ratified, approved and confirmed; provided, that this act shall not apply to any such districts, bonds, tax levies, tax assessments or tax rolls which are now involved in litigation. [Acts 1936, 44th Leg., 3rd C.S., p. 1992, ch. 481, § 1.]

Effective Oct. 27, 1936.

Section 2 of this Act declared an emergency and provided that Act should take effect from and after its passage.

Title of Act:

An Act to validate all Consolidated Rural High School Districts created or attempted

to be created by County Boards of Trustees, validating acts of County Boards of Trustees in creating or attempting to create Consolidated Rural High School Districts out of a district or districts that had been theretofore a Consolidated Common School District or districts, validating all elections,

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tax assessments, assessment rolls, and tax rolls, and the levy of taxes by said school districts, validating all proceedings had in the issuance of bonds and the levying of taxes therefor, validating bonds heretofore

authorized or voted but not yet issued, providing for certain exceptions where litigation is pending; and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 1992, ch. 481.]

Art. 2922aa. Consolidation of rural high school districts and common school districts authorized

Provided any Rural High School District already formed under the provisions of this law may consolidate with any contiguous Common School District upon an election being held in the respective districts; said election to be held in conformity with Article 2806, Revised Civil Statutes of Texas, 1925. Upon such consolidation said newly formed district shall take the form of said Rural High School District and be governed by the Board of Trustees of said Rural High School District, and shall become a part of said Rural High School District for all intents and purposes as though it were originally a part of said district. Provided that in case of any outstanding bonded indebtedness in either of said districts an election shall be held in conformity with the General Law governing school districts to determine whether or not said Common School District or Rural High School District shall assume their prorata part of such indebtedness. Provided, however, that said consolidation above referred to shall not become effective until after the election adjusting the bonded indebtedness and in case such election fails to be carried the consolidation shall be held for naught and such districts shall remain in their original status. [As added Acts 1937, 45th Leg., H.B. # 1128, § 1.]

Amendment of 1937 effective May 13, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 2922I. Tax

The board of a rural high school district provided for in this Act shall have the power to levy and collect an annual ad valorem tax not to exceed One Dollar (\$1) on the one hundred dollars valuation of taxable property of the district for the maintenance of schools therein, and a tax not to exceed Fifty (50) Cents on the one hundred dollars valuation of taxable property of the district for the purpose of purchasing, constructing, repairing, or equipping public free school buildings within the limits of such district, and the purchase of necessary sites therefor; providing that the amount of maintenance tax, together with the amount of bond tax of the district shall never exceed One Dollar (\$1) on the one hundred dollars valuation of taxable property; and provided further that no such tax shall be levied and no such bonds shall be issued until after an election shall have been held wherein a majority of the qualified taxpaying voters, voting at said election, shall have voted in favor of the levying of said tax, or of the issuance of said bonds, or both, as the case may be, and which election shall be held in accordance with the law now governing such elections in common school districts, or districts included in a rural high school district or annexed to a common or independent school district, as provided for herein, shall be continued in force until such time as a uniform district or said common or independent district as enlarged by the annexation of the said common school districts thereto. The board of trustees of any rural high school district may appoint an assessor of taxes who shall assess the taxable property within the limits of said district within the time provided by existing laws, and said assessment shall be equalized by the board of equalization composed of three (3) members appointed by the board of

trustees of said district. The said board of equalization shall be composed of legally qualified voters residing in said district, and shall have the same power and authority, and be subject to the same restrictions that now govern such boards in independent school districts. The tax assessor herein provided for shall receive such compensation for his services as the trustees of said district may allow, not to exceed two (2) per cent of taxes assessed by him. The county tax collector shall collect such tax and shall receive one-half of one per cent for his services for collecting such tax. Such tax when collected shall be deposited in the county depository to the credit of such rural high school district. The tax assessor herein provided for shall make a complete list of all assessments made by him, and when approved by the board of trustees shall be submitted to the county tax collector not later than September 1st of each year.

Provided that in counties having a population of less than eight thousand, seven hundred (8,700) and more than eight thousand, five hundred (8,500) according to the last Federal Census, rural high school districts composed wholly of common school districts, such rural high school districts shall not have the authority to appoint its tax assessor, board of equalization, nor tax collector, and the taxes thereof shall be assessed by the county tax assessor and collected by the county tax collector as in common school districts. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #98, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 2922l(2). Validation of county line rural high school districts

Section 1. All county line rural high school districts, created by General Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of the counties in which such districts are located, and heretofore recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. All acts of the Boards of Trustees of such districts ordering an election or elections, declaring the results thereof, levying, attempting or purporting to levy taxes for and on behalf of such school districts and all bonds heretofore voted but not yet issued, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any such district was omitted shall in nowise invalidate such district, and the fact that by inadvertence or oversight any act was omitted by the Board of Trustees of any such district in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such district, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so issued by such district.

Provided, however, that no action or resolution purporting to transfer any territory from one district to another district, without an affirmative vote of the voters of the districts affected shall be validated by the passage of this Act.

Taxation

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax as is now being levied, assessed, and collected therein and heretofore

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authorized or attempted to be authorized by any act, or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Pending litigation, effect on application of act

Sec. 3. This law shall not apply to any district, the organization or creation of which is now involved in litigation. Provided further that this Act shall not apply to any district which may have been established and which has later returned to its original status and has been so recognized by the proper authorities, provided, however, if and when any such litigation shall be finally terminated, in a manner favorable to such district, then this Act shall apply thereto.

Partial invalidity

Sec. 4. If any word, phrase, clause, sentence, paragraph, section, or part of this bill shall be held by any Court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act. [Acts 1937, 45th Leg., H.B. # 1115.]

Effective May 5, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

authorized by said districts; validating all tax levies made in behalf of said districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate of taxes as is now being levied, assessed, and collected therein, and heretofore authorized or attempted to be authorized by any act, or acts of said districts, or by any Act of the Legislature; making certain exemptions; providing a savings clause; and declaring an emergency. [Acts 1937, 45th Leg. H.B. #1115.]

Title of Act:

An Act to validate the organization and creation of all county line rural high school districts, created by General Law or by County Boards of Trustees; validating the acts of said County Boards of Trustees and Boards of Trustees of such districts; validating all proceedings and acts of said Boards of Trustees; validating all bonds

CHAPTER NINETEEN-B—STATE AID FOR RURAL AND SMALL TOWN SCHOOLS

Art.

2922zz—1. State or governmental agencies aiding school districts; declaration concerning corporate bodies affected [New].

Art. 2922zz—1. State or governmental agencies aiding school districts; declaration concerning corporate bodies affected

Section 1. Declaration concerning the corporate bodies politic or other governmental agencies to be affected by the Act. Whenever it appears that the consummation of any project by the State of Texas, or by any subsidiary corporate body politic of the State, or by any other governmental agency of the State (all of which, for convenience, hereinafter usually will be referred to as "State agency") has resulted, or will result, in producing in the affairs of any common school district, or independent school district, or other similar tax-supported educational district-creatures of the State (by whatever name they be designated, for convenience to be hereinafter usually referred to as "school district," or "district"), the conditions hereinafter designated; then, there may be exercised by the governing authority of the State's agency having control of any such project, the powers hereinafter established, under the conditions hereinafter defined.

Conditions existing as basis for aid

Sec. 2. The conditions which must exist as a basis for invocation of the powers of this Act:

(a) The school district has outstanding bonds or other indebtedness, which indebtedness must be paid, in whole or in part, by using the proceeds of ad valorem taxes levied by the district;

(b) It appears that the uncompensated loss of taxable values by the district will unduly burden the property, or the owners of the property, remaining subject to the taxing power of the district; or, if it appears that the district thereafter will not be able to discharge its function as an educational agency of the State, in a manner substantially comparable to that standard theretofore prevailing in the district; and

(c) To be a necessary condition for any relief under the provisions of this Act; the State agency has assurance of revenues to be derived from taxation of property not subject to taxation by one or more school districts conditioned as set forth in this Act, and deemed to be adequate in amount to afford the relief sought to be provided by this Act, without assuredly impairing the ability of a given affected State agency to discharge its lawfully imposed duties to the State; then:

Defining powers for relief to be conferred by the act

Sec. 3. Defining the powers for relief to be conferred by this Act. Whenever there be present in the relations of the State, or a State agency, to a school district concurrence of the conditions specified in Section 2 of this Act, then the governing body (or duly constituted and empowered officer or officers) of the State agency producing distress in the affairs of an affected school district, may exercise discretion to compensate the district and cooperate with it in the manners and within the limits now to be specified, i. e.:

(1) The State or any State agency in this Act specified may pay for the use and benefit of the district a sum of money not to exceed that which would be produced by taxing for a period of not to exceed six (6) years the property of the State agency, at the assessed valuation and at the rate of the district's tax levy for the particular year in which the appropriation of the given property was consummated; however:

(2) In no event shall the compensation to be made hereunder to any given district exceed the amount of its outstanding bonded debt on December 31st of the year during which the State agency may have acquired the property theretofore subject to the district's taxing power, plus a sum of money equal to the amount which will be produced by: Take the assessed value of the property acquired for the year in which it was acquired and apply thereto the rate of tax levied by the district for that year for operating costs (excluding levies for the betterment of the school plant and money to care for funded debt) and extend the amount to be produced in one (1) year for a period of not to exceed six (6) years; provided that compensation to be made hereunder shall be either under the terms of this subdivision (2) or under subdivision (1) foregoing, whichever will result in the smaller amount of compensation; and:

Taxation of lands of State agencies by school districts

Sec. 4. Authorizing the rendition of certain lands of State agencies for taxation by school districts. Whenever any State agency in acquiring land for its project acquires land so conditioned that:

(1) It is not needed to accomplish the objects of the project;

(2) Its segregation and separate use will not impair the usefulness of the remaining land so acquired; the land when segregated may be made

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to produce a rental or revenue; or, whenever any land so conditioned is held in anticipation of potential or future (undeveloped) needs, then it shall be lawful for any State agency, through its appropriate governing authority, to subject such land to taxation by a school district eligible for compensation hereunder, until such time as need for the actual use of such land has come into existence.

Leases by governmental agencies

Sec. 5. Where the law peculiar to any given State agency does not provide for it a duty differing from that next provided, and the particular governmental agency (not differently directed) owns or controls land subject to lease by others, then:

(a) Unless advertized as hereinafter provided; no lease upon any such land intended to confer on another the right of use for a period extending to a time later than December 31 of the calendar year in which the term of the particular use begins to run, shall be valid; and:

(b) Expressly excepted from need for advertisement as hereinafter provided for, are lands conditioned as follows:

1. Tracts of land not exceeding ten (10) acres in area;
2. Tracts of land as to which the reasonable lease value will not exceed One Hundred Dollars (\$100) per annum;
3. All lands not intended to be subjected to use in agriculture or grazing, and meaning hereby to provide for the hereinafter stipulated notice only in case of lands intended for use in agriculture and grazing, or leases for terms designated in subdivision (a) of this Section (unless the same may be excepted herefrom by the provisions of subdivision (b) of this Section) must be subjected to preliminary advertisement of the intent to lease the same, under the provisions that: The notice of the intent to lease for the calendar year next to ensue shall be published one time in the month of October of any given year, prior to the fifteenth day of that month, in a newspaper (if such there be) published in and having general circulation in each county in which the State agency may hold such leaseable land (in default of a newspaper published in a given county to be published in any newspaper having general circulation therein); and such published notice shall be sufficient if it, in substance, gives fair advice that: The advertising State agency will on a definite date (not earlier than October 25th of the particular year) begin to consider and thereafter continue to consider and determine the proposals for leases which may come to it; and, the notice further shall give advice as to the place or places, person or persons at which or to whom proposals for lease shall be made; further, the notice must state the postal address of the principal office of the given lessor agency and state that any interested person may have full knowledge concerning the lands proposed to be placed under lease, and the proposed terms of the leases, by applying at the address given. [Acts 1937, 45th Leg., H.B. # 969.]

Effective April 9, 1937.

Section 6 of this act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act authorizing the State or any subsidiary corporate body politic of the State or any other governmental agency of the State to make compensation to common school districts or independent school districts or other similar tax supported educational district-creatures of the State under certain conditions enumerated in the Act. The principal condition (not

meaning hereby to exclude the other conditions specifically set out in the Act) is that the governmental agencies named in the Act are given authority to make compensation or accord aid to school districts when the construction of public improvements by governmental agencies results to impair the ability of school districts to pay their bonded debts and to properly perform their functions as educational institutions; also limiting the compensation or aid which any enumerated governmental agency may make to a school district which has conditions as set forth in the Act; also authorizing the ren-

dition of certain lands of the State or State governmental agencies for taxation by school districts, and specifying the conditions under which this may be done; also providing for publication of notice of the intent to lease lands of certain State agencies, in certain cases, and specifying

the conditions under which, and the form in which, publication must be made; stating the conditions constituting an emergency, declaring the same, and providing that the Act shall have effect immediately after its enactment. [Acts 1937, 45th Leg., H.B. #969.]

CHAPTER TWENTY—TEACHERS' RETIREMENT [NEW]

Art.

2922—1. Teachers' Retirement System—
Definitions.

Art. 2922—1. Teachers' Retirement System—Definitions

Section 1. The following words and phrases as used in this Act unless a different meaning is plainly required by the context shall have the following meanings:

(1) "Retirement System" shall mean the Teachers' Retirement System of Texas as defined in Section 2 of this Act.

(2) "Public School" shall mean any educational organization supported wholly or partly by the State under the authority and supervision of a legally constituted board or agency having authority and responsibility for any function of public education.

(3) "Teacher" shall mean a person employed on a full-time, regular-salary basis by boards of common school districts, boards of independent school districts, county school boards, Retirement Board of Trustees, State Board of Education and State Department of Education, boards of regents of colleges and universities, and any other legally constituted board or agency of an educational institution or organization supported wholly or partly by the State. In all cases of doubt, the Retirement Board of Trustees, hereinafter defined, shall determine whether a person is a teacher as defined in this Act. A teacher shall mean a person rendering service to organized public education in professional and business administration and supervision and in instruction, in public schools as defined in subsection (2) of this section.

(4) "Taught" shall mean all regular services contributing directly and indirectly to the instruction offered by and through the teachers as defined in subsection (3) of this section.

(5) "Employer" shall mean the State of Texas and any of its designated agents or agencies with responsibility and authority for public education, such as the common and independent school boards, the boards of regents of state colleges and universities, the county school boards, or any other agency of and within the State by which a person may be employed for service in public education.

(6) "Member" shall mean any teacher included in the membership of the system as provided in Section 3 of this Act.

(7) "State Board of Trustees" shall mean the Board provided for in Section 6 of this Act to administer the Retirement System.

(8) "Service" shall mean service as a teacher as described in subsection (3) of this section.

(9) "Prior-Service" shall mean service rendered prior to the date of establishment of the Retirement System.

(10) "Membership Service" shall mean service as a teacher rendered while a member of the Retirement System.

(11) "Creditable Service" shall mean "Prior-Service" plus "Membership Service" for which credit is allowable as provided in Section 4 of this Act.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(12) "Beneficiary" shall mean any person in receipt of an annuity, a retirement allowance or other benefit as provided by this Act.

(13) "Regular Interest" shall mean interest at the rate of three and one-half (3½%) per centum per annum, compounded annually.

(14) "Current Interest" shall mean the mean interest earned annually on investments of retirement funds.

(15) "Accumulated Contribution" shall mean the sum of all the amounts deducted from the compensation of a member, and credited to his individual account in the Teacher Saving Fund together with regular interest thereon as provided in Section 8 of this Act.

(16) "Earnable Compensation" shall mean the full rate of the compensation that would be payable to a teacher if he worked the full normal working time. In cases where compensation includes maintenance, the State Board of Trustees shall fix the value of that part of the compensation not paid in money.

(17) "Average Prior-Service Compensation" shall mean the average annual compensation of a member during the ten (10) years immediately preceding the enactment of this law, or if he had less than ten (10) years of such service, then his average compensation shall be computed for his total years of such prior-service, but in computing the average, no salary for any one year shall be more than Three Thousand (\$3,000.00) Dollars.

(18) "Annuity" shall mean payments for life actuarially determined and derived from reserve funds contributed by a member and by the State. All annuities shall be payable in equal monthly installments.

(19) "Retirement Allowance" shall mean an annuity or any optional benefit payable in lieu thereof.

(20) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this Act.

(21) "Service Retirement" shall mean the retirement of a member from active service with an annuity or other benefit in lieu of an annuity at any time after reaching age of sixty (60) years.

(22) "Disability Retirement" shall mean withdrawal from active service on a disability allowance any time after twenty (20) years of service in Texas, and before becoming sixty (60) years of age.

(23) "Annuity Reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the State Board¹ of Trustees with regular interest, of all payments to be made on account of any annuity or benefit in lieu of any annuity, granted to a member under the provisions of this Act.

(24) "Actuarial Equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the State Board of Trustees, and regular interest.

(25) "School Year" shall mean the year beginning on or about September 1st and ending on or about August 31st.

Name and date of establishment

Sec. 2. A Retirement System is hereby established and placed under the management of the State Board of Trustees as hereinafter created for the purpose of providing retirement allowances and other benefits under the provisions of this Act for teachers as defined in this Act. The Retirement System so created shall be established as of July 1, 1937.

It shall have the power and privileges of a corporation and shall be known as the "Teacher Retirement System of Texas", and by such

¹ Should probably be "board".

name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held.

Membership

Sec. 3. The membership of said Retirement System shall be composed as follows:

(1) All persons who are teachers on the date as of which the Retirement System is established shall become members as of that date as a condition of their employment unless within a period of ninety (90) days after September 1, 1937, any such teacher shall file with the State Board of Trustees on a form prescribed by such Board, a notice of his election not to be covered in the membership of the System and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the Retirement System.

(2) Beginning September 1, 1938, and thereafter any teacher teaching for the first time in Texas shall become a member of the Retirement System as a condition of his employment.

(3) Should any member in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, or should he withdraw his accumulated contributions, or should he become a beneficiary, or upon death, he shall thereupon cease to be a member.

(4) Any teacher who elects not to become a member of the Retirement System as herein provided as of September 1, 1937, and the ninety (90) days next following, may make application to become a member at the beginning of any new school year, but without claim for prior-service credit.

(5) Anyone who has taught in the State of Texas in accordance with the terms of this Act, but who is not in service during the year in which the Act becomes effective, shall, if he becomes a teacher within two (2) years of the date on which this Act becomes effective, and if he continues as such for a period of five (5) consecutive years, be entitled to receive credit and resulting benefits for prior-service as provided for in this Act.

Creditable service

Sec. 4.

(1) Under such rules and regulations as the State Board of Trustees shall adopt each person who was a teacher, as defined in this Act, at any time during the year immediately preceding the establishment of the System, and who becomes a member during the first year of operation of the Retirement System, or who is a member at the beginning of the school year 1937-1938, shall file a detailed statement of all Texas service, as a teacher, rendered by him prior to the date of establishment of the Retirement System for which he claims credit.

(2) The State Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one school year.

(3) Subject to the above restrictions and to such other rules and regulations as the State Board of Trustees may adopt, the State Board of Trustees shall verify and adjust, as soon as practicable after the filing of such statements of service, the service therein claimed.

(4) Upon adjustment and verification of the statements of service, the State Board of Trustees shall issue prior-service certificates certifying to each member the length of Texas service rendered prior to the date of the establishment of the Retirement System, with which he is

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

credited on the basis of his statement of service. So long as membership continues, a prior-service certificate shall be final and conclusive for retirement purposes as to such service, provided, however, that any member may, within one (1) year from the date of issuance or modification of such certificate, request the State Board of Trustees to modify or correct his prior-service certificate.

When membership ceases, such prior-service certificate shall become void. Should the employee again become a member, such a person shall enter the System as a member not entitled to prior-service credit except as provided in Section 5, subsection (5), paragraph (b) of this Act.

(5) Creditable service at retirement on which the retirement allowance of a member shall be based, shall consist of the membership-service rendered by him since he last became a member, and also, if he has a prior-service certificate which is in full force and effect, the amount of the service credited on his prior-service certificate. No member shall be entitled to a retirement allowance until he has accumulated twenty (20) or more years of creditable service in Texas.

Benefits

Sec. 5.

1. Service Retirement Benefits.

(a) Any member in service may retire upon written application to the State Board of Trustees. Retirement shall be effective as of the end of the school year then current, provided that the said member at the time so specified for his retirement shall have attained the age of sixty (60) years.

(b) Any member in service who has attained the age of seventy (70) years shall be retired forthwith, provided that with the approval of his employer he may remain in service.

(c) Paragraphs (a) and (b) of this subsection are limited as follows:

Any member in service on the date upon which this Act becomes effective who has attained the age of seventy (70) years may be retired on September 1, 1938; and any member in service on the date upon which this Act becomes effective who has attained the age of sixty (60), but not seventy (70) years shall not be permitted to make application for retirement until he has been a member of the Retirement System for two (2) years.

2. Allowance for Service Retirement.

Upon retirement for service, a member shall receive a retirement allowance in the form of an annuity which shall be the actuarial equivalent of the sum of his savings and the State reserves due him as a condition of his creditable service and membership in the Retirement System. His retirement allowance reserve shall be derived from:

(a) His accumulated contributions credited to his account in the Teacher Saving Fund at the time of retirement; and

(b) An additional sum from the State Accumulation Fund equal to the accumulated contributions provided by the member in paragraph (a) of this subsection; and

(c) If he has a prior-service certificate in full force and effect, an additional annuity reserve fund, the amount of which shall be the actuarial equivalent of an annuity of one (1%) per centum of his average prior-service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior-service certificate; provided that in computing his average prior-service compensation, the maximum number of years of service to be allowed shall be thirty-six (36) years and the maximum prior-service salary Three

Thousand (\$3,000.00) Dollars; provided that the State Board of Trustees shall have an actuarial and statistical study made at least once every five (5) years showing annual trends and the probable liabilities and assets; upon the recommendation of the Actuary, the Board shall have the power to reduce or increase the one (1%) per centum to a percentage not below one-third ($\frac{1}{3}$) of one (1%) per centum, nor more than one (1%) per centum of the average prior-service compensation until the resulting reduced liability does not exceed the available assets for prior-service. Provided that if the five-year actuarial investigation reveals further need of reducing said prior-service liabilities in order to strike a balance with available assets during said period for said service, the State Board of Trustees shall reduce the average prior-service salary, and the number of years of prior-service credit so that the total reduction required will fall equally upon said salary and service for the period covered by the report of the Actuary. Provided, further, any adjustment in the amount of prior-service compensation of any member or members of the System made by the Trustees, shall be over a period of years of not less than five (5), nor more than seven (7). Available assets shall mean that part of the State Accumulation Fund not required as reserves to meet prospective liabilities calculated to accrue annually over a limited number of years on account of service retirement reserves and disability retirement reserves.

(d) It is expressly provided that the prior-service compensation herein provided for shall be a mutual agreement on the part of the State of Texas and the teacher-member of the Retirement System, and in no event shall the failure of the State Board of Trustees to make adjustments for which total funds are not available for payment of prior-service and disability benefits be held as a liability against the State of Texas.

(e) It is further provided that any funds remaining on hand at the end of each five-year period based upon the actuarial and statistical study herein provided for and which shall not be needed to meet the accrued liabilities of the State for prior-service reserves and disability benefits, shall revert to the General Treasury of the State of Texas as of August 31st of said year.

3. Disability Retirement Benefits.

Upon the application of a member in service, or of his employer or his legal representative acting in his behalf, any member who has had twenty (20) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on a disability retirement allowance, provided, that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

4. Allowance on Disability Retirement.

Upon retirement for disability, a member shall receive a service retirement allowance if he has attained the age of sixty (60) years, otherwise he shall receive a disability retirement allowance which shall be the actuarial equivalent of the sum of funds derived from sources as follows:

(a) From the accumulated contributions of the member standing to his account in the Teacher Saving Fund at the time of his retirement; and

(b) An additional amount from the State Accumulation Fund equal to the accumulated contributions provided by the member in paragraph (a) of this subsection; and

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) If he has a prior-service certificate in full force and effect, and additional amount which shall be equal to fifty (50%) per centum of the award for such prior-service as herein computed.

5. Beneficiaries Retired on Account of Disability.

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the State Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his annuity shall be revoked by the State Board of Trustees.

(a) Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disability beneficiary is engaged in or is able to engage in a gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his annuity shall be discontinued or reduced to an amount by which the amount of the last year's salary of the beneficiary, as a teacher, exceeds his present earning capacity. Should his earning capacity be later changed, the amount of his annuity may be further modified; provided, that the revised annuity shall not exceed the amount of the annuity originally granted which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

(b) Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and any annuity reserves on his retirement allowance at that time in the Annuity Reserve Fund shall be transferred to the Teacher Saving Fund and to the State Accumulation Fund, respectively, in proportion to the original sums transferred from his account to the Annuity Savings Fund at retirement. Upon restoration to membership any prior-service certificate on the basis of which his service was computed at the time of his retirement, shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. No teacher eligible to retire for service at sixty (60) years of age shall be allowed to retire on a disability allowance. If the disability beneficiary shall be removed from the disability list for any cause, the unused part of the reserves for the annuity purchased from his accumulated contributions shall be transferred to the Teacher Reserve Fund and the State Accumulation Fund, respectively, and disposed of as provided for in this Act.

6. Return of Accumulated Contributions.

Should a member cease to be a teacher except by death or retirement under the provisions of this Act, he shall be paid in full the amount of the accumulated contributions standing to the credit of his individual account in the Teacher Saving Fund. Should a member die before retirement, the amount of his accumulated contributions standing to the credit of his individual account shall be paid as pro-

vided by the laws of descent and distribution of Texas unless he has directed the account to be paid otherwise. Seven (7) years after such cessation of service, if no previous demand has been made, any accumulated contributions of a contributor shall be returned to him or to his heirs. If the contributor or his heirs cannot then be found, his accumulated contributions shall be forfeited to the Retirement System and credited to the Permanent Retirement Fund.

7. Optional Allowances.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of death; until the first payment on account of any service benefit becomes normally due, any member may elect to receive his benefit in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

Option (1). Upon his death, his reduced retirement allowance shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2). Upon his death, one-half ($\frac{1}{2}$) of his reduced retirement allowance shall be continued through the life of, and paid to such person, as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at or before the time of his retirement; or

Option (3). Some other benefit or benefits shall be paid either to the member, or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced service retirement allowance, shall be certified by the Actuary to be of equivalent actuarial value to his retirement allowance, and approved by the State Board of Trustees.

Administration

Sec. 6. State Board of Trustees.

(1) The general administration and responsibility for the proper operation of the Retirement System and for making effective the provisions of the Act are hereby vested in a State Board of Trustees which shall be organized immediately after a majority of the Trustees provided for in this Section shall have qualified and taken the oath of office.

(2) The Board shall consist of six (6) Trustees as follows:

(a) The State Life Insurance Commissioner, ex-officio.

(b) The Chairman of the State Board of Control of Texas, ex-officio.

(c) A person selected by the State Board of Education for a term of six (6) years.

(d) Three (3) of the Trustees shall be members of the Retirement System and shall be nominated by the members of the Retirement System for a term of six (6) years each according to such rules and regulations as the State Board of Trustees shall adopt to govern such nominations, provided that the first three (3) teachers to serve as members of the State Board of Trustees shall be appointed by the Governor from a list of seven (7) teachers nominated by the Executive Committee of the Texas State Teachers Association. The terms of office of the first three (3) teacher-trustees shall begin immediately after they have qualified and taken the oath of office. They shall draw for terms of two (2), four (4), and six (6) years, which shall expire August 31,

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1939, and August 31, 1941, and August 31, 1943, respectively. Thereafter, the State Board of Trustees shall provide for the nomination of three (3) teacher-members biennially by popular election of the members of the Retirement System, from which the Governor shall appoint one member to the State Board of Trustees; said member shall be subject to confirmation by two-thirds ($\frac{2}{3}$) vote of the State Senate. The members so appointed shall serve for terms of six (6) years, or until their successors are qualified.

(3) If a vacancy occurs in the office of a Trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(4) The Trustees shall serve without compensation, but they shall be reimbursed from the Expense Fund for all necessary expenses that they may incur through service on the Board.

(5) Each Trustee shall, within ten (10) days after his appointment, in addition to the constitutional oath, subscribe to the following oath of office: "I do solemnly swear that I will, to the best of my ability, discharge the duties of a Trustee of The Teacher Retirement System and will diligently and honestly administer the affairs of the Board of Trustees of said Retirement System and that I will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to said Retirement System." This oath shall be subscribed to by members making it before any officer qualified to administer oaths in Texas, and duly filed in the office of the Secretary of State.

(6) Each Trustee shall be entitled to one vote in the Board. A majority of the State Board of Trustees shall constitute a quorum and a majority vote of those present shall be necessary for a decision by the Trustees at any meeting of said Board.

(7) Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for eligibility of membership and for the administration of the funds created by this Act and for the transaction of its business.

(8) The State Board of Trustees shall elect from its membership a Chairman, and shall by a majority vote of all its members appoint an Executive Secretary who shall not be one of its members. Provided that the Executive Secretary appointed under the provisions of this Act shall be confirmed by a two-thirds ($\frac{2}{3}$) vote of the Senate present and provided further that said Executive Secretary shall have been a citizen of Texas three (3) years immediately preceding his appointment. He shall recommend and nominate to the State Board of Trustees such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the State Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System shall be paid at such rates and in such amounts as the State Board of Trustees shall approve, provided that in no case shall they be greater than that paid for like or similar service of the State of Texas.

(9) The State Board of Trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the Retirement System, and for checking the expenses of the System.

(10) The State Board of Trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding school year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System by means of an actuarial valuation of the assets and liabilities of the Retirement System.

Legal Adviser.

(11) The Attorney General of the State of Texas shall be the legal advisor of the State Board of Trustees, and shall represent it in all litigations.

Medical Board.

(12) The State Board of Trustees shall designate a Medical Board to be composed of three (3) physicians not eligible to participate in the Retirement System. The physicians so appointed by the State Board of Trustees shall be legally qualified to practice medicine in Texas and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the State Board of Trustees its conclusion and recommendations upon all the matters referred to it.

Duties of Actuary.

(13) The State Board of Trustees shall designate an Actuary who shall be the technical adviser of the State Board of Trustees on matters regarding the operation of the funds created by the provisions of this Act, and shall perform such other duties as are required in connection therewith.

(14) Immediately after the establishment of the Retirement System, the Actuary shall make such investigation of the mortality, service, and compensation experience of the members of the System as he shall recommend and the State Board of Trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the State Board of Trustees such tables and such rates as are required. The State Board of Trustees shall adopt tables and certify rates, and as soon as practicable thereafter, the Actuary shall make a valuation based on such tables and rates, of the assets and liabilities of the funds created by this Act.

(15) In the year 1938, and at least once in each five-year period thereafter, the Actuary shall make, under the direction of the Board, an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and shall make a valuation of the assets and liabilities of the funds of the System, and taking into account the result of such investigation and valuation, the State Board of Trustees shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary; and certify the rate per centum which shall be allowed in calculating amounts of prior-service reserves to be credited to the account of each member at retirement.

(16) On the basis of such tables as the State Board of Trustees shall adopt, the Actuary shall make an annual valuation of the assets and liabilities of the funds of the System created by this Act.

Management of funds

Sec. 7. (1) The State Board of Trustees shall be the trustees of the several funds as herein created by this Act, and shall have full power to invest and reinvest such funds subject to the following limitations and restrictions: All retirement funds, as are received by the Treasury of the State of Texas from contributions of teachers and employers as herein provided, may be invested only in bonds of the United States, the State of Texas, or counties, or cities, or school districts of this State, wherein said counties, or cities, or school districts

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

have not defaulted in principal or interest on bonds within a period of ten (10) years, or in bonds issued by any agency of the United States Government, the payment of the principal and interest on which is guaranteed by the United States; and in interest bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session;¹ provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amounts that may become due each year as provided in this Act. The State Board of Trustees shall have full power by proper resolution to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds, provided that any money on hand shall be subject to the State Depository Laws of Texas.

(2) The State Board of Trustees annually shall allow regular interest on the mean amount for the preceding year in each of the funds with the exception of the Expense Fund as herein provided. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the State Board of Trustees from interest and any other earnings on the moneys of the Retirement System held in the Interest Fund. Any additional amount required to meet the regular interest on the funds of the Retirement System shall be paid from the interest reserve account of the Permanent Retirement Fund, as herein provided, and any excess of earnings over such amount required shall be paid to the interest reserve account of the Permanent Retirement Fund.

(3) The Treasurer of the State of Texas shall be the custodian of all bonds, securities, and funds. All payments from said funds shall be made by him on warrants drawn by the State Comptroller of Public Accounts supported only upon vouchers signed by the Secretary of the Retirement System and the Chairman of the State Board of Trustees. A duly attested copy of a resolution of the State Board of Trustees designating such persons shall be filed with said Comptroller as his authority for issuing such warrants.

(4) For the purpose of meeting disbursements for annuities and other payments there may be kept available cash, not exceeding ten (10%) per centum of the total amount in the several funds of the Retirement System, on deposit with the State Treasurer.

(5) No trustee and no employee of the State Board of Trustees shall have any direct or indirect interest in the gains or profits of any investment made by the State Board of Trustees, nor as such receive any pay or emolument for his service other than his designated salary and authorized expenses, except such interest as such person or persons may have in the retirement funds as a member in the Retirement System.

Method of financing

Sec. 8. The amount contributed by each teacher to the Retirement Fund shall be five (5%) per centum of the regular annual compensation paid each member, the amount not to exceed One Hundred Eighty (\$180.00) Dollars per annum. The amount contributed by the State of Texas to the Retirement Fund shall not exceed during any one year five (5%) per centum of salaries of all members, disregarding salaries in amounts in excess of Three Thousand Six Hundred (\$3,600.00) Dollars, provided the total amount contributed by the State during any one (1) year shall equal the total amount contributed during the same year by all members of the Retirement System.

All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one (1) of six (6) funds, namely, the Teacher Saving Fund, the State Accumulation Fund, the Annuity Reserve Fund, the Interest Fund, the Permanent Retirement Fund, and the Expense Fund.

1. The Teacher Saving Fund.

(a) The Teacher Saving Fund shall be a fund in which shall be accumulated regular five (5%) per centum contributions from the compensation of members, including regular interest earnings. Contributions to and payments from the Teacher Saving Fund shall be made as follows:

(b) Each employer shall cause to be deducted from the salary of each member on each and every pay roll of such employer for each and every pay roll period, five (5%) per centum of his earnable compensation, provided that the sum of the deductions made for a member shall not exceed One Hundred Eighty (\$180.00) Dollars during any one (1) year. Deductions shall begin with the first pay roll period of the school year 1937-1938. In determining the amount earnable by a member in a pay roll period, the State Board of Trustees may consider the rate of annual compensation payable to such member on the first day of the pay roll period as continuing throughout such pay roll period, and it may omit deduction from compensation for any period less than a full pay roll period if a teacher was not a member on the first day of the pay roll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth ($\frac{1}{10}$) of one (1%) per centum of the annual compensation upon the basis of which such deduction is to be made.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The employer shall certify to the State Board of Trustees on each and every pay roll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Teacher Saving Fund, and shall be credited, to the individual account of the member from whose compensation said deduction was made.

(d) Interest on members' contributions will be credited annually as of August 31st and will not be allowed for parts of a year. Following the termination of membership in the Retirement System for those members who have been absent from service for five (5) years in any period of six (6) consecutive years, the Teacher Saving Fund account of such members shall be closed and warrants covering the total accumulated contributions sent to them upon the filing of formal application. Until the time of payment of such accumulated contributions, said teacher shall receive no interest on the amount due him under this subsection, and the amount shall be held in a non-interest-bearing account to be set up for such purpose.

(e) Upon the retirement of a member, his accumulated contributions shall be transferred from the Teacher Saving Fund to the Annuity Reserve Fund.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

2. State Accumulation Fund.

The State Accumulation Fund shall be the fund in which shall be accumulated all contributions made to the Retirement System by the State of Texas; and from which shall be transferred at retirement of a member to the Annuity Reserve Fund, all annuity and benefit reserves due a member from this Fund as a condition of his creditable service and membership at retirement. Contributions to and payments from this Fund shall be made as follows:

(a) The State of Texas shall pay annually into the State Accumulation Fund an amount equal to five (5%) per centum of the sum of the pay roll compensation of all members of the Retirement System from the source and in the manner prescribed in subsection (7) of this Section.

(b) The State Accumulation Fund shall be divided for actuarial and administrative purposes, into two (2) ledger accounts as follows: (1) the membership-service account; and (2) the prior-service account. During the first year of the operation of the Retirement System and periodically thereafter as provided for in this Act, the adjustments of rates and formulas used in making calculations of amounts to be transferred on account of prior-service shall be based on studies made by the Actuary so that a balance between liabilities and assets of the two (2) accounts may be maintained and that equalizing reserves for each five-year period or more shall be created and maintained in the prior-service account of this fund.

(c) Upon the retirement of a member, an amount equal to his accumulated contributions in the Teacher Saving Fund shall be transferred from the membership-service account of the State Accumulation Fund to the Annuity Reserve Fund as a membership-service reserve for his retirement allowance; and an additional amount mechanically calculated shall be transferred from the prior-service account of the State Accumulation Fund to the Annuity Reserve Fund at retirement as provided for in section 5, subsections (2) and (3), paragraph (c) of this Act.

3. Annuity Reserve Fund.

The Annuity Reserve Fund shall be the fund in which shall be held all reserves for annuities granted and in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this Act. This fund shall be made up of transfers as follows:

(a) At the time of service retirement the accumulated contributions of a retiring teacher shall be transferred from the Teacher Saving Fund to the Annuity Reserve Fund as reserves for annuities purchased by his contributions.

(b) An amount equal to the accumulated contributions of each retiring teacher shall be transferred, upon service retirement, from the State Accumulation Fund as reserves for an additional annuity equal to the annuity purchased by the teacher, as provided for in section 5, subsection (2), paragraph (b) of this Act, and in subsection (a) next above.

(c) Reserves for prior-service annuities granted under this Act shall be transferred from the State Accumulation Fund as calculated in Section 5, subsection (2) paragraph (c) of this Act, and as provided for in subsection (2) of this section.

(d) The accumulated contributions of teachers retired for permanent disability shall be transferred from the Teacher Saving Fund to the Annuity Reserve Fund upon retirement.

(e) Reserves for the remainder of the disability allowances shall be transferred from the State Accumulation Fund in the manner prescribed in Section 5, subsection (4), paragraphs (b) and (c) of this Act, and as provided for in subsection (2) of this Section.

Transfers from the Annuity Reserve Fund shall be made as follows: Should a beneficiary retired on account of disability be restored to active service or be removed from the disability list for any cause, the unused part of his annuity reserves shall be transferred from the Annuity Reserve Fund to the respective funds as provided for in Section 5, subsection (5), paragraph (b) of this Act.

4. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of uniform interest in the various other funds with the exception of the Expense Fund. All income, interest, and dividends derived from the deposits and investments authorized by this Act shall be paid into the Interest Fund. Once each year on August 31st, regular interest shall be allowed and transferred to the other funds, respectively, except the Expense Fund. The State Board of Trustees shall annually transfer to the credit of the interest reserve account of the Permanent Retirement Fund all excess earnings after other funds have been duly credited with regular interest for the year in the manner provided in this Act.

5. Permanent Retirement Fund.

The Permanent Retirement Fund shall be a fund in which shall be accumulated all gifts, awards, funds, and assets accruing to the Retirement System not specifically required by other funds created by this Act, and to provide a contingent fund out of which special requirements of other funds may be covered. The principal of this Fund is hereby held and dedicated as a perpetual endowment of the Retirement System and shall not be diverted or appropriated to any other cause or purpose. All regular interest credited to this Fund and excess interest earnings transferred to this Fund shall be held as an interest reserve account from which payments shall be made as follows:

(a) The State Board of Trustees shall reserve and transfer such amount as may be required to guarantee regular interest on the mean amounts of investments of the funds created in this Act, except the Expense Fund.

(b) The said Board shall transfer annually from the interest reserves of this Fund to the Expense Fund such amount as is required to provide for the administration and maintenance of the Retirement System, provided the funds are available.

6. Expense Fund.

The Expense Fund shall be the fund from which the expenses of administration and maintenance of the Retirement System shall be paid. Transfers to and payments from this Fund shall be made as follows:

(a) The Executive Secretary shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the State Board of Trustees for its review and adoption.

(b) Each member shall pay with the first payment to the Teacher Saving Fund each year, and in addition thereto, a sum of One (\$1.00) Dollar, which amount shall be credited to the Expense Fund, said payments for the Expense Fund shall be made to the State Board of Trustees in the same way as payments to the Teacher Saving Fund shall be made, as provided for in this Act.

(c) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of One (\$1.00) Dollar per con-

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tributor for the year, the amount of such excess shall be paid from the interest reserve account of the Permanent Retirement Fund. If in the judgment of the State Board of Trustees, as evidenced by a resolution of that Board recorded in its minutes, the amount in the interest reserve account of the Permanent Retirement Fund exceeds the amount necessary to cover the ordinary requirement of that Fund for a period of five (5) years in the future, the Board may transfer to the Expense Fund such excess amount not exceeding the entire amount required to cover the expenses as estimated for the year.

(d) The sum of Twenty-five Thousand (\$25,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated from the General Revenue Fund of the State not otherwise appropriated for the purpose of organizing the Retirement System and establishing an office. This sum shall be credited to said Expense Fund.

7. Collection of Contributions.

(1) The collection of members' contributions shall be as follows:

(a) Each employer shall cause to be deducted on each and every pay roll of a member for each and every pay roll period subsequent to the date of establishment of the Retirement System the contributions payable by such member, as provided in this Act. Each employer shall certify to the treasurer of said employer on each and every pay roll a statement as vouchers for the amount so deducted.

(b) The treasurer or proper disbursing officer of each employer on authority from the employer shall make deductions from salaries of teachers as provided in this Act, and shall transmit monthly, or at such time as the State Board of Trustees shall designate, a certified copy of the pay roll, and the amount specified to be deducted shall be paid to the Executive Secretary of the State Board of Trustees, and after making a record of all receipts, the said Board shall pay them to the Treasurer of the State of Texas, and by him be credited to Teacher Retirement Fund, and such funds shall be deemed as appropriated for use according to the provisions of this Act. For the purpose of collecting contributions of teachers who are teaching in common school districts, the county superintendent or ex-officio county superintendent of each county of this State is hereby designated to perform the duties of employer of all common school districts over which he has jurisdiction, and he is hereby authorized and empowered to retain the amounts so deducted from pay rolls of members and have a corresponding amount deducted from any funds available for paying teachers' salaries, and transmit same to the Executive Secretary of the State Board of Trustees as provided for in this Act. Any college or university or other educational institution or agency supported in whole or in part by the State shall have the amount retained or deducted from the funds regularly appropriated by the State for the current maintenance for such educational departments and institutions.

(c) For the purpose of enabling the collection of five (5%) per centum of the salaries of the members of the Retirement System to be made as simple as possible, the State Board of Trustees shall require the secretary or other officer of each employer-board or agency, within thirty (30) days after the beginning of each school year, to make up a list of all teachers in its employ, who are members of the Retirement System, set out their salaries by the month and by the year, make an affidavit to the correctness of this statement, and file the same with the Executive Secretary of the State Board of Trustees of the Teacher Retirement System. If additions to or deductions from this list should be made during the year, such additions or deductions shall likewise be

certified under oath to the State Board of Trustees of the Teacher Retirement System.

(d) The State Treasurer shall furnish annually to the State Board of Trustees a sworn statement of the amount of the funds in his custody belonging to the Retirement System. The records of the State Board of Trustees shall be open to public inspection and any member of the Retirement System shall be furnished with a statement of the amount to the credit of his individual account upon written request by such member, provided that the State Board of Trustees shall not be required to answer more than one such request of a member in any one year.

(2) The collection of the State's contributions shall be made as follows:

(a) On or before the first day of November, next preceding each Regular Session of the Legislature of Texas, the State Board of Trustees shall certify to the State Board of Control for its review and adoption, the amount necessary to pay the contribution of the State of Texas to the Teacher Retirement System, for the ensuing biennium. This amount shall be included in the budget of the State, which the Governor submits to the Legislature. Provided, however, that no appropriation shall be made by the Legislature out of the General Funds of the State of Texas for the payment of benefits as herein provided for. Payments can only be made out of special taxes levied as authorized in the Constitutional amendment for the retirement of teachers.

(b) The State Board of Trustees shall certify one-quarter ($\frac{1}{4}$) of the amount so ascertained for each year to the State Comptroller and to the Treasurer of the State on or before the last day of December, February, May, and September. Upon proper resolution by the Board of Trustees the Comptroller shall on or before the first day of January, March, June, and October, draw a warrant or warrants on the Treasurer of the State of Texas for the respective amounts due the State Retirement System. On the receipt of the warrant of the Comptroller, the Treasurer of the State of Texas shall immediately transfer to the State Retirement System the amount due the State Accumulation Fund on account of the State, as provided in this Act.

Exemptions from execution

Sec. 9. The right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Act, and the moneys in the various funds created by this Act, are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Act specifically provided.

Protection against fraud

Sec. 10. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of this Retirement System in any attempt to defraud such System as a result of such act shall be guilty of a felony, and shall be punished as provided for under the laws of Texas. Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the State Board of Trustees shall correct such error, and so far as practicable, shall adjust the payment in such a

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manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Surety bonds

Sec. 11. The Treasurer of the State of Texas shall, upon becoming custodian of the Teacher Retirement Fund, give a bond in the sum of Fifty Thousand (\$50,000.00) Dollars; the Executive Secretary shall give bond in the sum of Twenty-five Thousand (\$25,000.00) Dollars, and the State Board of Trustees shall require any other employees and members of the State Board of Trustees to give bond in such amounts as the Board may deem necessary, conditioned that said bonded persons will faithfully execute the duties of the respective offices. All bonds shall be made with a good and solvent surety company, authorized to do business in the State of Texas, said bonds shall be made payable to the State Board of Trustees and shall be approved by it and the Attorney General of Texas. All expense necessary and incident to the execution of such bonds, including premiums thereon, shall be paid by the State Board of Trustees from the Expense Fund.

Limitation on membership

Sec. 12. No other provision of law in any other statute which provides wholly or partly at the expense of the State of Texas for pensions or retirement benefits for teachers of the said State, their widows, or other dependents, shall apply to members or beneficiaries of the Retirement System established by this Act.

Reservation of right to amend

Sec. 13. The Legislature hereby reserves the right to amend any section, paragraph or any and all provisions of this Act as it may from time to time deem necessary.

Partial invalidity and repeal of inconsistent laws

Sec. 14. If any section or part of any section of this Act is declared to be unconstitutional, the remainder of the Act shall not thereby be invalidated. All provisions of the law inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency. [Acts 1937, 45th Leg., S.B. # 47.]

1 Article 2603d.

Effective June 9, 1937.

Section 15 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Appropriation and use of donations for retirement fund, see art. 2683a of this title.

Title of Act:

An Act to carry into effect Section 48a of Article III of the Constitution; to establish a Teachers' Retirement System of Texas; to determine membership and conditions of membership in said System; to provide for a Board of Trustees of said System and for the administration of its affairs; to provide for officers and a Medical Board and to define their duties; to provide for the adoption of actuarially-made mortality, service and other tables as may be deemed necessary; to provide

for the creation, management and distribution of the Teacher Reserve Fund, the State Accumulation Fund, the Annuity Reserve Fund, the Interest Fund, the Permanent Retirement Fund, and the Expense Fund of the said System; and to provide a method of financing said System; providing that no appropriation shall ever be made by the Legislature out of the General Funds for the payment of retirement benefits; and providing that such payments can only be made out of special taxes levied as authorized in the Constitutional Amendment for the retirement of teachers; making an appropriation of Twenty-five Thousand (\$25,000.00) Dollars out of the General Revenue Funds of the State of Texas not otherwise appropriated, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #47.]

TITLE 50—ELECTIONS

CHAPTER ONE—MISCELLANEOUS PROVISIONS

Art.

2929a. Commencement of term of office
[New].

Art. 2929a. Commencement of term of office

From and after the effective date hereof the terms of office of all elective State and District officers of the State of Texas, excepting Governor, Lieutenant Governor, Members of the Senate, and Members of the House of Representatives, shall begin on the 1st day of January next following the General Election at which said respective State and District officers were elected. [Acts 1937, 45th Leg., H.B. # 663, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this act declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act providing for the beginning of the terms of certain State and District offices of the State of Texas; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #663.]

CHAPTER THREE—OFFICERS OF ELECTION

Art.

2942a. Selection of supervisor for election precinct; qualification and duties
[New].

Art. 2942a. Selection of supervisor for election precinct; qualification and duties

Upon petition of forty (40) of the qualified voters but not to exceed five (5) per cent of any election precinct or ward, the Chairman of the County Executive Committee or any three (3) members of such Committee may not less than five (5) days before such election select a supervisor for such election precinct who, when selected, shall be sworn as an election officer. Said supervisors shall be qualified voters in that particular election precinct and shall be selected from the list of voters signing such petition. While the election is being held such supervisors shall remain in view of the ballot boxes until the count is concluded. It shall be their duty to be present at the marking by the Judge of said election of the ballot of any voter not able to mark his own ballot, to see that said ballot is marked in accordance with the wishes of the voter, and to see that such ballot is correctly counted. Said supervisors shall note any fraud or irregularity occurring and report same to the next Grand Jury. The supervisor appointed by virtue of the provisions of this Act shall be compensated by the citizens upon whose petition they were appointed. [As added Acts 1937, 45th Leg., H.B. # 369, § 1.]

Effective April 23, 1937.

Section 2 of this act declared an emergency making the act effective on and after its passage.

Art. 2943. [2925-26] Pay of judges and clerks

Judges and Clerks of general and special elections shall be paid Three Dollars (\$3) a day each, and Thirty (30) Cents per hour each for any time in excess of a day's work as herein defined; provided that in all counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census, such Judges and Clerks shall be paid Five Dollars (\$5) a

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day each, and Fifty (50) Cents per hour each for any time in excess of a day's work as herein defined. The Judge who delivers the returns of election immediately after the votes have been counted shall be paid Two Dollars (\$2) for that service, provided the polling place of his precinct is at least two (2) miles from the courthouse, and provided also he shall make returns of all election supplies not used when he makes return of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of Judges and Clerks of general and special elections shall be paid by the County Treasurer of the county where such services are rendered upon order of the Commissioners Court of such county. [As amended Acts 1937, 45th Leg., H.B. # 51, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER SEVEN—ARRANGEMENTS AND EXPENSES OF ELECTION

Art. 2997a. Providing for voting machines

Sec. 3. [Adoption by Commissioners' Court.] The Commissioners Court of any county in the State of Texas may adopt for use in elections and primary elections in at least three (3) of the larger voting precincts in voting strength in said county, any kind of voting machine approved by the Secretary of State and may adopt such voting machine at any time for use in such additional voting precincts in the county as it may deem advisable, and thereupon such voting machine shall be used at any and all elections and primary elections, municipal, county, district, or State held in that county or any part thereof, designated for voting, registering and counting votes cast at such elections and primary elections, all school and bond elections also shall be conducted by the use of voting machines in those counties or parts thereof where such machines have been adopted, where the law specifically makes their use obligatory. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 1.]

Amendment of 1937, effective Nov. 6, 1937.

Section 11 of the amendatory act of 1937 repeals all conflicting laws and parts

of laws; section 12 declared an emergency and provided that the act should take effect from and after its passage.

Sec. 6. Payment for Voting Machines.—The County Commissioners Court shall provide for the payment of voting machines to be used in such county in such manner as the Court may deem for the best interest of the county, and for the purpose of paying for voting machines, such Commissioners Court is hereby authorized to issue bonds, and certificates of indebtedness, warrants, or other obligations to be used for this purpose and no other, which shall be a charge against the county, such bonds, certificates of indebtedness, or other obligations, may be issued with or without interest payable at such time or times as the Commissioners Court may determine, but shall never be issued nor sold for less than par; provided, however, that such Commissioners Court shall issue such bonds, certificates of indebtedness, warrants, or other obligations, to be used for the purpose of payment of voting machines in the same manner and with the same authority as provided for the issuance of warrants, bonds, certificates of indebtedness, or other obligations, by the General Laws of this State. The necessary tax shall be set aside at the time of creating such obligation so as to meet the debt provisions of the Constitu-

tion; provided, however, that should the Commissioners Court of any county deem it for the best interest of such county, said Commissioners Court is hereby authorized to contract for the renting of voting machines by such county for use in elections for a term of not more than two (2) years in any one contract of rental. Upon the expiration of such term of contract of rental such Commissioners Court may renew and/or extend same from time to time. Such contracts shall be made only after advertising for bids in the manner provided by the General Laws controlling the purchases made by such county for county purposes, provided and except, however, the Commissioners Court of any county is hereby authorized to accept proposals of rental and/or sale of voting machines after advertising as provided by law wherein the rentals paid by such county for the use of such voting machines or a part thereof may be applied on the purchase price of such machines upon such Commissioners Court determining that it is to the best interest of such counties so to do. Such voting machines shall be the property of the county paying for same and/or renting same, subject to the terms of the rental contract, and when used in any election or primary election, the county is not charged by law with the holding of, such machines shall be leased to the authorities charged with holding such election or primary election, and payment shall be received by the county at such lease price per machine for each election day such machines are used in an election as the Commissioners

Court shall fix, but not to exceed ten (10) per cent of the original cost of such voting machine, as may be required to hold each election or primary election. The term each election or primary election, as herein used, shall mean each election day such machines are used for voting purposes in such elections, and the Commissioners Court in fixing such lease price shall fix a lease price, and payment for same shall be received by the county, for each day such machines are actually used for voting in such election or primary election, and in the event a runoff election or primary runoff election is held, such lease price shall be paid to the county for each whether the same be the first election or primary election or the second and/or runoff election or second and/or runoff primary; and those charged with the holding of such election or primary election shall pay the lease price whether it be a school board, a municipality, a political party, or any other organization or authority. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 2.]

Emergency section. See note under section 3 of this article.

Sec. 7. Absentee voting.—In counties in which voting machines are used, a voting machine or machines shall be placed in the County Clerk's office, if an election held at the expense of the county, or if a primary election, and if a city or town election, in the office of the city or town secretary and if a school district or other election, in a public place designated within the boundaries of such district or election, with the ballot of the election thereon as required by law, and those entitled under the law, shall cast their vote on such machine or machines as the case may be, under the laws now applicable to absentee voting; except that the machine or machines shall be sealed at the close of the day's voting in the presence of authorized watchers of all persons interested, if any, and such seal shall be broken in the presence of such authorized watchers, if any, the following morning when voting shall begin, by the person authorized by law and charged as the authority holding such election. When absentee voting is legally concluded at election or primary election such voting machines shall be locked and sealed in the manner prescribed for precincts, to be kept intact until 7:00 A. M. of the day of the election or primary election, at which time the machine or machines shall be

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opened and the vote canvassed by the Election Board holding such election as provided by law, and if a primary election, by the Chairman and the Executive Secretary of the Executive Committee of the political party holding same, and the results of such canvass shall be returned by sealing and delivering same to the proper authority as provided by law and such results and/or returns shall be tabulated and canvassed in the same manner and together with the tabulation and canvassing of the returns from other voting precincts, provided, however, that the results of such absentee votes shall not be announced or made public until after 7:00 P. M. of the day of the election, or primary election, when such results shall be announced and made public together with the general results of the election by proclamation of same as provided by law. Upon such machine and/or machines in use for absentee voting being opened and the vote canvassed, the same shall be immediately prepared and set for voting as provided by law and shall be used, if necessary, in any voting precinct of said election or primary election, then being held. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 3.]

Emergency section. See note under section 3 of this article.

Sec. 8. Form of Ballots on Voting Machines.—All ballots shall be printed in black ink on white, clear material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. In general elections, the party name and a designating letter and number shall be affixed to the name of each candidate, and the name of all candidates of one political party shall be so arranged that a voter may be able to cast his ballot for such candidates as he may desire or to cast one ballot for all the candidates of that political party. In primary elections, however, the ballot shall be so arranged and the levers so locked so as to prevent the voting of straight tickets, and should there be so many candidates file in a primary election as to exceed the capacity of one machine, more than one machine shall be provided for each voting precinct, but in all cases where more than one machine is used in a voting precinct, the names of all candidates for any particular office shall be placed on one machine. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 4.]

Emergency section. See note under section 3 of this article.

Sec. 9. Sample Ballots.—The authorities charged with holding the election or primary election may provide for each precinct two sample ballots and one model arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use in that election or primary election. Such sample ballots and model shall be on display in each precinct voting place throughout the time the polls are open and attention shall be especially called to them before each voter uses machine. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 5.]

Emergency section. See note under section 3 of this article.

Sec. 10. Preparation of Voting Machines.—It shall be the duty of the County Clerk of each county where voting machines are used, to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, to examine all voting machines in the presence of authorized watchers for any interested persons, before they are sent out to the polling places, to see that all the registering counters are set at zero (000), to lock, in the presence of authorized watchers, all voting machines so that the counting machinery cannot be operated and to seal each one with a num-

bered seal, a list of which numbered seals and the number on the protective counters, together with the number of the precinct to which it was sent, shall be kept as a permanent record open to any citizen, in the records of the County Clerk. Such inspection and sealing of voting machines shall begin within five (5) days of the day before any election or primary election at which such machines are to be used, and continue until all such machines are sealed. When all machines are locked and sealed, the key to each machine shall be placed in an envelope and sealed, the signature of the County Clerk and the signatures of two (2) watchers of opposed interest, if there be such, placed across the seal, and on the envelope shall be written the number then on the protective counter and the number of the seal of the voting machine, such envelope to be delivered to the presiding officer of each precinct.

It shall be the duty of the Sheriff in an election which the county is charged with the expense of, the duty of the County Chairman in the primary election, the duty of the Mayor in a city election, the duty of the president of a school board in a school election, and the duty of the authority holding such election or primary election of any character, to have delivered a voting machine or machines, to each and every polling place where same is required by law to be used, at least one hour before the time set for the opening of the polls in such voting precinct. After the machine has been delivered, the same authority shall cause such machine to be set up in the proper manner and cause protection to be given so such machine shall be free from molestation and injury. The same authority shall cause to be delivered with each such machine an auxiliary light where necessary properly prepared to be lighted in emergency, so arranged that the light from such will illuminate the face of the machine sufficiently that a voter may be able to read all the names on such machine, and suitable for officers in examining counters. The protective hood and screen of the machine shall be examined to see that they conceal the actions of the voter properly, while such voter is operating the machine. All poll lists and necessary supplies shall be delivered to the presiding officer at the same time the key or keys to the machine are delivered. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 6.]

Emergency section. See note under section 3 of this title.

Sec. 13. General Provisions.—The presiding officer shall be in general charge of the poll and shall see that one or more of the clerks of the election properly checks off the name of each voter from the poll list before such voter casts his ballot, that the poll tax certificate or exemption certificate of the voter is stamped "voted" with the date of the particular election or primary election with the rubber stamp provided under the law or writes "voted" with the date with pen and ink if no rubber stamp be provided, and it shall further be the duty of one of such clerks to see that the voting machine is not tampered with and shall attend the machine at all times. He shall inspect the ballot labels after each voter leaves the machine to see that none have been tampered with and to see that the machine has not been injured. He shall see that the coverings of the counter compartments of the machine are never unlocked nor opened so the counters are exposed during voting except for good and sufficient reasons, a statement of which shall be made and signed by all authorized persons in the polls and attached to the returns. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 7.]

Emergency section. See note under section 3 of this article.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 18. Canvass of the Vote and the Proclamation of the Result.— As soon as the polls are closed, officials thereat shall immediately lock the machine against voting. They then shall sign a certificate stating that the machine was locked and sealed, giving the exact time; such certificate giving the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct; the number on the seal; the number registered on the protective counter. (This also shall be the procedure at the close of absentees voting when the machines are used for absentee voting prior to election day.) They then shall open the counting compartment in the presence of the watchers, and at least one representative of any newspaper or press association which cares to be represented, giving full view of all the counter numbers. The presiding officer shall under the scrutiny of the watchers, in the order of the offices as their titles are arranged on the machines, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, and the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the result on each Constitutional amendment, bond proposition, or any other question voted on. The vote as registered shall be entered on the statements of canvass in ink by two (2) watchers of opposing interest (if there be such) and verified by the three (3) election officials, such entries to be made in the same order on the space which has the same designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines by watchers of opposed interest (if there be such). The returns of the canvass as required by law shall then be filled out, verified, and shall show the number of votes cast for each candidate, the number of votes cast for and against any proposition submitted, and shall be signed by the three (3) election officials and at least two (2) watchers of opposed interest (if such there be). The counter compartments of the voting machine shall remain open throughout the time of the making of all statements and certificates and the official returns and until such have been fully verified, and during such time any candidate or his representative or any representative of any newspaper or press association shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the presiding officer, who shall read the names of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polls, to compare the results announced with the counter dials of the machine and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever of the machine that the voting and counting mechanism will be prevented from operation. Irregular ballots, properly sealed, and signed shall be filed with the original statement of canvass, which canvass shall be delivered in the same manner and to the same authorities as now provided by law. The presiding officer shall deliver to the County Clerk the keys of the machine enclosed in a sealed envelope across the seal of which shall be written his own name together with that of at least two (2) watchers of opposed interest (if such there be) or the two (2) other election officials, and on this envelope shall be recorded the date of the election or primary election, the number of the precinct, the number of the seal with which the machine was sealed, the

number of the public counter and the number of the protective counter. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 8.]

Emergency section. See note under section 3 of this article.

Sec. 20. Preservation of Ballots and Records of Voting Machines.—The voting machine shall remain locked against voting for a period of ten (10) days and then shall have the seal broken only on the order of a District Judge having jurisdiction in that county, such order to be entered on the minutes of the District Court of that county, and if in the opinion of such District Judge, contest is likely to develop, shall remain locked for such time as the District Judge may direct; provided, however, such time shall not be for a period of time that will interfere with or prohibit the use of such machines in a subsequent election. Except, that on the order of any Court of competent jurisdiction or on the order of any legislative body the seal may be broken for the purposes of proper investigation and when such investigation is completed, the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the persons or person having broken same. Irregular ballots shall be preserved in the same manner and for the same length of time as now provided by law for other ballots. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 9.]

Emergency section. See note under section 3 of this article.

Sec. 24. Representation.—The authorities charged with holding an election or primary election are directed wherever possible, in the naming of election officers, to name for each precinct a presiding officer and a clerk for such precinct, of opposed interest in that election, or primary election, the third official also a clerk who should be, wherever possible, nonpartisan. But each political party concerned in an election is entitled to name one watcher for each voting precinct where voting machines are used, said watcher to be recognized by the presiding officer, of that precinct upon the presentation of a certificate signed by the County Chairman of that political party, and any candidate for a State office, the State Senate, any candidate for Representative in the House of the Legislature of Texas, or any candidate for District Judge, or any one-fifth of the candidates for county offices, or any one-fifth of the candidates for precinct offices; or any candidate for mayor, or any candidate for city commissioner in municipalities, or any three (3) candidates in a school election, or the proponents or the opponents of a bond issue, may name one watcher for each precinct in an election or primary election for each precinct where voting machines are used. Any candidate for the United States Senate or Representative in the House of the United States Congress may name one watcher for each election precinct where a voting machine is used. The candidate desiring representation by a watcher shall sign a certificate setting out the name of the person, the number of the precinct where such watcher is to serve, such certificate to bear the signature of the candidate or candidates entitled to representation, together with the signature of the bearer. The presiding officer of the election must require a counter signature and preserve the certificate of the bearer to make certain he is the identical person referred to in the certificate, but cannot for any other reason refuse to permit such watcher to serve. For their services election officials and employees shall be paid a sum to be set by the authority charged with holding the election or primary election, but not less than the amount set now by law and not more than Ten Dollars (\$10) per day, provided, however, that no election official shall be paid more than the prorata part of two (2) hours overtime after the polls are closed. Watchers, a

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

necessary adjunct to an election with voting machines, may be paid by the interest they represent, but not to exceed Ten Dollars (\$10) per day, provided, however, that the authority holding such election shall not pay for the services of such watchers. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #121, § 10.]

Emergency section. See note under section 3 of this article.

CHAPTER THIRTEEN—NOMINATIONS

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

against candidates for Congress in certain districts composed of single counties [New].

Art.

3116b. Limitation on amounts assessable

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

[Art. 3116a. Payments by candidates for State Senator or Representative]

In all counties of this State having a population of more than one hundred thousand (100,000), and not in excess of two hundred and fifty thousand (250,000) inhabitants, according to the last preceding Federal Census, no person who is a candidate in a primary election of such county for nomination for State Senator or Representative in the Legislature shall have his or her name placed on such primary ballot unless and until he or she has paid to the County Executive Committee of such county a sum to be fixed by such Executive Committee not to exceed Fifty Dollars (\$50) as his or her portion of the expenses for holding such primary election; and in all counties of this State having a population of more than two hundred and fifty thousand (250,000) inhabitants, according to the last preceding Federal Census, no person who is a candidate in a primary election of such county for nomination for State Senator or Representative in the Legislature shall have his or her name placed on such primary ballot unless and until he or she has paid to the County Executive Committee of such county a sum to be fixed by such Executive Committee, not to exceed One Hundred Dollars (\$100), as his or her portion of the expenses for holding such primary election; and such candidate shall not be required to pay any other sum, or sums, to any other person or committee to have his or her name placed on the ballot as such candidate; except that any such candidate whose district includes another county or counties of less than one hundred thousand (100,000) population, according to the last Federal Census, shall pay to the Executive Committee of such other county, or counties, as may be in such candidate's district, an additional sum of One Dollar (\$1) and no more in each of said counties to have his or her name placed on the ballot in each of such other counties."

Sec. 2. All laws, or parts of laws, in conflict herewith are hereby repealed as to those portions of such law, or laws, as are in conflict herewith. [Acts 1935, 44th Leg., p. 356, ch. 129, as amended Acts 1937, 45th Leg., H.B. # 982.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

Section 3 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 3116b. Limitation on amounts assessable against candidates for congress in certain districts composed of single counties

From and after the passage of this Act in all counties having a population of more than three hundred twenty thousand (320,000) inhabitants, and less than three hundred fifty thousand (350,000) inhabitants, according to the last preceding and any future Federal Census, the county executive committee in estimating the cost of a primary election and run-off (if there is one) shall not assess any candidate for Congress whose district composes but one county, more than Three Hundred Fifty (\$350.00) Dollars.

From and after the passage of this Act in all counties having a population of more than two hundred ninety-two thousand (292,000) inhabitants, and less than three hundred thousand (300,000) inhabitants, according to the last preceding and any future Federal Census, the county executive committee in estimating the cost of a primary election and run-off (if there is one) shall not assess any candidate for Congress whose district composes but one county, more than Six Hundred (\$600.00) Dollars. [Acts 1937, 45th Leg., S.B. # 491, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act limiting the amount of money to be assessed against candidates for Congress in districts composed of one county, when the population is more than three

hundred twenty thousand (320,000) inhabitants, and less than three hundred fifty thousand (350,000), and when the population is more than two hundred ninety-two thousand (292,000) inhabitants, and less than three hundred thousand (300,000), according to the last preceding and any future Federal Census, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #491.]

Art. 3139. [3140] State convention

All party State conventions to announce a platform of principles and announce nominations for Governor and State offices shall, except as otherwise provided, meet at such places as may be determined by the parties respectively on the Tuesday after the second Monday after the fourth Saturday in August, 1936, and every two years thereafter, and they shall remain in session from day to day until all nominations are announced and the work of the convention is finished. Said convention shall elect a chairman of the executive committee and sixty-two members thereof, two from each senatorial district of the State, one of which two shall be a woman and one a man, the members of said committee to be those who shall be recommended by the delegates representing the counties composing the senatorial districts respectively, each county voting its convention strength, each of whom shall hold said office until his successor is elected; and, in case of a vacancy, majority of the members of said committee shall fill the same by electing some eligible person thereto, but such person shall be of the same sex as vacating member. [As amended Acts 1927, 40th Leg., 1st C.S., p. 27, ch. 15, § 3; Acts 1937, 45th Leg., S.B. # 153, § 1.]

Amendment of 1937, effective May 5, 1937.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of

laws. Section 3 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER FOURTEEN—LIMITING EXPENDITURES IN PRIMARY

Art.

3170b. Candidates for Representative in State Legislature, limiting expenses of in certain counties [New].

Art. 3170b. Candidates for Representative in state legislature, limiting expenses of in certain counties

Section 1. That in all counties of this State having a population of more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, each candidate for Representative in the Legislature, may expend, or cause to be expended by his campaign manager or otherwise under the provisions of Chapter 14¹ of Title 50, Revised Civil Statutes of Texas, 1925, not to exceed Seven Hundred and Fifty Dollars (\$750), or the equivalent thereof in value, for campaign expenses in the primary campaigns for nomination to such office; of which sum, not more than Six Hundred Dollars (\$600) may be expended in the first primary. Other than the increase in the amount of expenditures of such campaign expenses provided for, and permitted under the provisions of this Act, all other provisions of Chapter 14, Title 50, of the Revised Civil Statutes of Texas of 1925, shall remain unaffected by this Act, and all other provisions of said Chapter 14, other than as to the amount of expenditures permitted, shall remain in full force and effect.

Provisions cumulative; repeal

Sec. 2. The provisions of this law shall be cumulative of all General Laws on the subject not in actual conflict herewith, and all laws and parts of laws in conflict herewith are repealed only in so far as such laws are in actual conflict with the provisions of this Act in their application, and in case of such conflict the provisions of this Act shall control and be effective. [Acts 1937, 45th Leg., H.B. # 1021.]

¹ Articles 3168-3173.

Effective 90 days after May 22, 1937, date of adjournment.

Title of Act:

An Act fixing and limiting expenses of candidates for Representative in the State Legislature in primary elections in counties of more than one hundred thousand (100,000) inhabitants, according to the last

preceding Federal Census; subject to all other provisions of Chapter 14, Title 50, of the Revised Civil Statutes of Texas of 1925; and repealing all laws in conflict with the provisions of this Act, but not otherwise; making the Act cumulative of all General Laws. [Acts 1937, 45th Leg., H.B. #1021.]

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER TWO—STATE HOSPITALS

Art.

3185a. State Hospital established west of one hundredth meridian [New].

3193c—1. Temporary commitment by county court without jury trial;

Art.

apprehension and commitment [New].

3196a. Classes of patients admitted [New].

Art. 3185a. State Hospital established west of one hundredth meridian

That there shall be constructed, established, and maintained a hospital for the care, treatment, and support of mentally ill persons of this State. It shall be known as the State Hospital; that after the said hospital has been located then the name of the town near which

it is located shall be added to the name so as to thereafter read _____ State Hospital. The hospital shall be located at some point west of the one hundredth meridian, or within any county through which the one hundredth meridian passes, and any place where not less than three hundred (300) acres of good fertile agricultural land can be secured by donation to the State of Texas.

The Board of Control of the State of Texas shall select a site for said hospital, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, the supply of water, building material, fuel, fertility of soil, and healthfulness, and the same shall contain not less than three hundred (300) acres of land as above described. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said hospital; provided, however, that the Attorney General's Department shall first approve the title to the said land so selected by the said Board.

At the completion of the buildings, and when the said hospital is ready to open, the Board of Control shall appoint a Superintendent and other employees to superintend and carry on the work of such hospital as is now provided by the General Laws of the State of Texas governing such institutions.

The support and general maintenance of said hospital shall be the same in every respect as is provided for insane hospitals as now provided by law.

There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient to accommodate at least five hundred and forty (540) inmates; said buildings to be provided with modern improvements for furnishing water, heat, ventilation, and sewerage; and the Board of Control immediately after this Act goes into effect and after the selection of the site for said hospital, and after the title of said land shall have been approved by the Attorney General, shall advertise for plans and specifications for said buildings and contract for the erection of the same; and shall have the power and authority to do and perform all things necessary for carrying out the purpose of this Act. Provided that all buildings authorized by this Act, and for which an appropriation is hereby made, shall be of fireproof construction, and that the part of all plans and specifications for the erection of said buildings relating to fire protection shall be subject to the approval of the State Fire Insurance Commission.

That there shall be and there is hereby appropriated out of the General Revenues of this State not otherwise appropriated the sum of Eight Hundred and Seventeen Thousand Dollars (\$817,000) for the buildings and improvements and the expenses incurred in securing the lands for the site, providing that no money herein appropriated shall be expended for the payment of the lands selected for the site.

The total appropriation as heretofore set out shall be allocated as follows:

Item 1 Ward building and equipment.....	\$115,000.00
Item 2 Ward building and equipment.....	115,000.00
Item 3 Psychopathic building and equipment.....	127,000.00
Item 4 General hospital-clinic building and equipment..	75,000.00
Item 5 Administration building and equipment.....	100,000.00
Item 6 Employees' quarters and equipment.....	60,000.00
Item 7 Storeroom-warehouse and equipment.....	40,000.00
Item 8 Utility and other buildings, utility and other equipment, roads, sidewalks, furniture, live- stock, implements, and contingencies.....	185,000.00

Grand total, proposed new hospital.....\$817,000.00

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

In the expenditure of the above itemized amounts, the Board of Control shall have the authority to make proper adjustments in the above set forth items. [Acts 1937, 45th Leg., H.B. # 397, § 1.]

Effective May 21, 1937.

Sections 2 and 3 of Acts 1937, 45th Leg. H.B. #397, which were similar to section 1 of the act except that they appropriated the sum of \$817,000.00 for establishment of a state hospital east of the 96th meridian, were vetoed by the governor. The veto message read as follows:

"Approved and signed (May 21, 1937) as to the appropriation item and authority contained in Section 1 of \$817,000 for the establishment of a hospital west of the 100th Meridian; disapproved and vetoed as to the appropriation item and authority of \$817,000.00 for the establishment of a hospital east of the 96th Meridian as per appended statement, copy of which is being transmitted to the Legislature this 21st day of May, A. D. 1937.

(Signed) James V. Allred
Governor of the State of Texas."

Appended statement by Governor referred to above read as follows: "Veto of that portion of H.B. 397 contained in Sections 2 and 3 carrying an appropriation and authority for the buildings and improvements and expenses incurred in securing the land for the site of a hospital to be located east of the 96th Meridian; the second appropriation item in said bill."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for the purchase of sites and for the establishment, location and construction of hospitals for the mentally ill, naming the same, and providing for the care, treatment, and support of mentally ill persons; to make appropriation therefor; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #397.]

Art. 3189. [Repealed by Acts 1937, 45th Leg., H.B. # 326, § 6]

Effective April 14, 1937.

Art. 3193c—1. Temporary commitment by county court without jury trial; apprehension and commitment

Section 1. (a) If information in writing and under oath be given to any County Judge that any person in his county who is not charged with a criminal offense, is believed to be mentally ill, and that the welfare of himself and/or others requires that he be placed in a State hospital for the mentally ill for not exceeding ninety (90) days for observation and/or treatment, and such County Judge shall believe such information to be true, he shall forthwith, in termtime or vacation, fix a day and place for the hearing and determining of the matter, which place shall be either in the Courthouse of the county, or at the residence of the person named, or at any other place in the county, as the County Judge may deem best for such person and shall give notice to such person of the time and place of such hearing. If, upon the hearing of such matter, two (2) reputable physicians authorized by law to practice medicine in the State of Texas, neither of whom is on the staff of any Texas State Hospital, and each of whom has examined the person alleged to be mentally ill within the preceding five (5) days of said hearing, shall swear that in each of their professional opinions such person is mentally ill, is neither feeble-minded, an idiot, an imbecile, nor an epileptic, and that in his opinion such person should be temporarily committed for observation and/or treatment to some State hospital authorized by law to care for and treat mentally ill persons, and if thereupon the County Court finds that such person should be temporarily committed to a State hospital for observation and/or treatment, he shall so state in his order of commitment which shall be entered upon the minutes of said Court and a writ of commitment issued thereupon committing said person temporarily for observation and/or treatment to some State hospital authorized by law to care for and treat mentally ill persons. Said order of the County Court shall in no event be of any further force or effect from and after ninety (90) days from the date thereof. The Court's order shall fix the temporary commitment period at a term which shall not

exceed ninety (90) days. A sworn statement of the evidence of said two (2) physicians shall be filed in said matter, and a duly certified copy thereof and the Court's order committing such person and the financial-property statement hereinafter provided for shall be forwarded immediately to the State Board of Control, and said certified copies shall be any hospital superintendent's sufficient authority to admit and hold said person in said hospital for observation and/or treatment for not exceeding ninety (90) days. Said person, while a patient of any State hospital, shall be subject to the General Laws and the rules and regulations governing said hospital. The Board of Control, upon advice of the Attorney General, shall prepare the legal forms needed hereunder and shall furnish the counties copies thereof to be used in the preparation and printing of such legal forms. No superintendent of a State hospital shall admit such person, unless and until the commitment order and papers are prepared and so filed on the approved forms.

(b) Such person may also be committed temporarily for not exceeding ninety (90) days, as hereinbefore provided, to United States Veterans' Administration Facilities and other United States Government-operated hospitals, or any other agency or department of the United States Government required or authorized by Federal Law to furnish care and treatment to such person in those cases where such agency or department of the United States Government will accept such person.

Release of temporarily committed patients

Sec. 2. A person who has been temporarily committed by the County Court to a State hospital for observation and/or treatment, may be released, discharged, or furloughed by the hospital superintendent at any time during the commitment period. Said patient shall be automatically discharged on the expiration date fixed in the Court's order and the hospital superintendent shall thereupon immediately release such patient, and any discharge from said superintendent of said patient shall operate to fully set aside in all respects said order of commitment by the County Court.

Expenses of temporarily committed patients

Sec. 3. The county shall provide transportation to and from the State hospital for such person temporarily committed to such hospital by the County Court, but the county shall be reimbursed for such expenses if the patient or relatives are financially able to pay such expenses. The county committing such person to a State hospital, acting through its County Court, shall provide all transportation expenses of returning the patient from the State hospital to the committing county within five (5) days after the hospital superintendent shall have mailed a notice by registered mail to the committing County Judge that the patient is to be released, discharged, or furloughed. Said hospital charges for the maintenance and treatment of such patient shall be paid by such patient or such patient's relatives, if they are financially able to pay, in such amounts and at such times as may be required by the State Board of Control in accordance with the laws now in force or hereinafter enacted relating to such charges of persons committed to State hospitals by jury trial. The committing county shall be liable to the State for the board and treatment of the person for all the time he remains in the State hospital after the expiration of the five-day period after notice shall have been mailed to the County Judge of said county as hereinbefore provided. The County Judge shall furnish to the State Board of Control a financial and property statement or certificate concerning the property of said person, or the property of such person's relatives who may be liable for such person's support.

Who are liable

Sec. 4. Where the patient has no sufficient estate of his own, he shall be maintained at the expense:

- Of the husband or wife of such person, if able to do so;
- Of the father or mother of such person, if able to do so.

Property rights of temporarily committed persons

Sec. 5. The commitment of a person under this Act shall not affect his property rights nor his legal capacity.

Transfer of patients from other states to Texas

Sec. 6. The State Board of Control, upon the written application of the County Judge of a person's resident county, is authorized to accept for observation and/or treatment in any State hospital for the mentally ill, any resident citizen of Texas who may be committed to a hospital for the treatment of the mentally ill in any other State, and the county of his residence shall be, for all purposes, considered the committing county.

Partial invalidity

Sec. 7. In the event any section, subdivision, paragraph, or sentence of this Act shall be declared unconstitutional or void, the validity of the remainder of this Act shall not be affected thereby; and it is hereby declared to be the policy and intent of the Legislature to enact the valid portions of this Act, notwithstanding the invalid portions. [Acts 1937, 45th Leg., H.B. # 126.]

Effective May 5, 1937.

Section 3 of this Act declared an emergency making the Act effective on and after its passage.

Title of Act:

An Act providing that County Courts upon information and notice, without the necessity of a trial by jury in term time or vacation, may temporarily commit persons alleged to be mentally ill who are not charged with a criminal offense to State hospitals for the mentally ill for not exceeding ninety (90) days for observation and/or treatment; providing temporary commitment may also be made to United States Veterans' Administration Facilities and other United States Government-operated hospitals in those cases where such agency or department of the United States

will accept such persons; providing a method of determining who may be committed hereunder; providing for the temporary commitment of such persons, their discharge, furlough, and release; providing for the payment of their transportation, support, maintenance, and treatment charges and who are liable therefor; providing that the commitment of a person shall not in any way affect the property rights nor the legal capacity of the person so committed; providing for the transfer of residents of this State committed to hospitals for the mentally ill in other States to the hospitals for the mentally ill in this State; providing that if any portion of this Act is declared unconstitutional and invalid it shall not affect the remaining parts; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #126.]

Art. 3196a. Classes of patients admitted

Section 1. Patients admitted to State hospitals and State psychopathic hospitals shall be of two classes, to wit:

- Indigent patients;
- Non-indigent patients;

Indigent patients are those who possess no property of any kind nor have anyone legally responsible for their support, and who are unable to reimburse the State. This class shall be supported at the expense of the State.

Non-indigent patients are those who possess some property out of which the State may be reimbursed, or who have someone legally liable for their support. This class shall be kept and maintained at the expense of the State, as in the first instance, but in such cases the State shall have

the right to be reimbursed for the support, maintenance, and treatment of such patients.

Persons chargeable with expenses of patients

Sec. 2. Where the patient has no sufficient estate of his own, he shall be maintained at the expense:

Of the husband or wife of such person, if able to do so;

Of the father or mother of such person, if able to do so.

Investigations to determine means of support

Sec. 3. The State Board of Control is authorized to demand and conduct investigations in the County Court to determine whether or not a patient is possessed of or entitled to property and/or whether or not some other person is legally liable for his support, maintenance, and treatment and to pay therefor, and to have citation issued and witnesses summoned to be heard on said investigation.

Contracts fixing support

Sec. 4. The State Board of Control, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance, and treatment of patients in any State hospital or psychopathic hospital at a sum not to exceed the cost of same or for such part thereof as such respective patient, his relatives or guardian of his estate may be able to and agree to pay, and binding the persons making such contracts to payment thereunder.

State representative in filing claims in probate court

Sec. 5. Upon the written request of the State Board of Control the County or District Attorney, or in case of the refusal or inability of both to act, the Attorney General, shall represent the State in filing a claim in Probate Court or a petition in a Court of competent jurisdiction, wherein the guardian of such patient and/or other person legally liable for his support, may be cited to appear then and there to show cause why the State should not have judgment against him or them for the amount due it for the support, maintenance, and treatment of such patient; and, upon sufficient showing, judgment may be entered against such guardian or other persons for the amount found to be due the State, which judgment may be enforced as in other cases. A verified account, sworn to by the superintendent of the respective hospitals or psychopathic hospitals wherein such patient is being treated, or has been treated, as to the amount due shall be sufficient evidence to authorize the Court to render judgment therein. The County or District Attorney representing the State shall be entitled to a commission of ten (10) per cent, of the amount collected. All moneys so collected, less such commission, shall be, by the said attorney, paid to the State Board of Control, which shall receive and receipt for the same and shall use the same for the maintenance and improvement of said institution or institutions in which said patient shall have been confined.

Repeals

Sec. 6. That Section 4, Chapter 174, Acts, Regular Session of the Thirty-ninth Legislature, being Article 3189, Revised Civil Statutes of Texas of 1925, and all laws and parts of laws in conflict with this Act, be and they are hereby expressly repealed. There is however, specifically reserved and preserved to the State any and all rights and causes of action that accrued or arose under and by virtue of said Section 4, Chapter 174, Acts, Regular Session, Thirty-ninth Legislature, being Article 3189, Revised Civil Statutes of Texas of 1925, or any other laws repealed by this Act.

Partial invalidity

Sec. 7. If any section, sentence, clause, or part of this Act shall, for any reason, be held to be invalid, such decision or holding shall not affect the remaining portions of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause, or part thereof may be declared invalid. [Acts 1937, 45th Leg., H.B. # 326.]

Effective April 14, 1937.

Section 8 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act defining indigent and non-indigent patients in State and psychopathic hospitals; providing for their support and that the State be reimbursed for the support, maintenance, and treatment of non-indigent patients; declaring who are liable for the support, maintenance, and treatment of non-indigent patients; providing that the State Board of Control may demand and conduct investigations in the County Court to determine the ability of patients or those liable for their

support to pay therefor; authorizing contracts for the support, maintenance, and treatment of patients in State and psychopathic hospitals, and providing that suits may be instituted to collect for the support, maintenance, and treatment of patients, and that the County and District Attorneys shall represent the State in such suits and prescribing the fee for so doing; repealing Section 4, Chapter 174, Acts, Regular Session, Thirty-ninth Legislature, being Article 3189, Revised Civil Statutes of Texas of 1925; repealing all laws in conflict herewith; reserving all rights and causes of action that arose under said Acts so repealed; providing a saving clause, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #326.]

CHAPTER THREE—OTHER INSTITUTIONS

<p>DEAF, DUMB AND BLIND ASYLUM FOR COLORED YOUTHS</p> <p>Art. 3221a. Orphan negro children to be accepted in Home at Austin; removal of orphan negro children from</p>	<p>Art. Dickson Colored Orphanage [New].</p> <p>STATE HOME FOR DEPENDENT AND NEGLECTED CHILDREN 3255a. Name of home changed [New].</p>
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DEAF, DUMB AND BLIND ASYLUM FOR COLORED YOUTHS

Art. 3221. [210] Powers and duties of Board of Control

Section 2 of this article was repealed by Acts 1937, 45th Leg., H.B. #525, § 3. However, the 45th Leg., by H.B. # 1188, § 1, repealed H.B. # 525.

Art. 3221a. Orphan negro children to be accepted in Home at Austin; removal of orphan negro children from Dickson Colored Orphanage

Sec. 2. The State Board of Control is hereby authorized to accept and care for, support and maintain, orphan Negro children in the Deaf, Dumb, and Blind Asylum for Colored Youths and Colored Orphans, located at Austin, Texas. Said Board shall have authority to move any and all orphan Negro children from the Dickson Colored Orphanage located near Gilmer, Texas, to Austin, and place them in said asylum, and care for, support, and maintain them, in said institution whenever they deem it advisable to do so; and until such time said Board shall be authorized to use the land and other property at Gilmer, Texas, now occupied and used by said Dickson Colored Orphanage for such purpose, and shall have all powers and authority herein conferred to control the prop-

erty of said orphanage at such place, and use it for such purposes until such time as suitable provisions shall be made for caring for said orphans at the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas.

Dickson Colored Orphanage to be sold

Sec. 3. As soon as all the Negro children are removed from said Dickson Colored Orphanage by the Board of Control as provided for in this Act, the said Board shall be authorized, and it is hereby made its duty, to sell the said Dickson Colored Orphanage property for the best price that can be obtained therefor; said sale to be either for cash or on a credit as said Board may determine to be for the best interest of the State. The title to said real property shall be conveyed to the purchaser by deed duly executed by the members of the Board of Control, and the title to the personal property shall be passed to the purchaser by bill of sale, duly executed by said members. The proceeds from the sale of said property when collected shall be used by the said Board of Control for the purchase of additional land, the erection of additional buildings, or the support and maintenance for the said Deaf, Dumb and Blind Asylum for Colored Youths and Colored Orphans at Austin, Texas, as said Board may determine to be for the best interest of said institution. [Acts 1937, 45th Leg., H.B. # 1188.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1937, 45th Leg., H.B. #525, entitled "An Act declaring the purpose of the Legislature in enacting this Act; creating the Texas Home for Colored Orphans and providing for the maintenance of such Home at or near Gilmer, Texas, in the County of Upshur, upon a site or tract of land heretofore donated by the Dickson

Colored Orphans, Incorporated, to and accepted by the State of Texas; repealing Sections 2 and 7 of Chapter 21, Acts of the Forty-first Legislature, Third Called Session, and all other laws and parts of laws in so far as they conflict with the provisions of this Act or its purpose to continue the maintenance of a negro orphans' home upon that tract of land donated to the State of Texas located in Gilmer, Upshur County, Texas, and declaring an emergency," was repealed by Acts 1937, 45th Leg., H.B. # 1188, § 1.

STATE HOME FOR DEPENDENT AND NEGLECTED CHILDREN

Art. 3255a. Name of home changed

That the name of the State Home for Dependent and Neglected Children which is located at Waco, Texas, be and the same is hereby changed and shall hereafter be known and designated as Waco State Home. [Acts 1937, 45th Leg., H.B. # 909, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act changing the name of the State Home for Dependent and Neglected Children to be hereafter known as Waco State Home, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #909.]

Art. 3258. [Repealed by Acts 1937, 45th Leg., H.B. #1073, § 6]

Effective June 9, 1937.

TITLE 52A—ENGINEERS [NEW]

Art.

3271a. Registration of professional engineers.

Art. 3271a. Registration of professional engineers

Section 1. That in order to safeguard life, health, and property, any person practicing or offering to practice the profession of engineering as hereinafter defined shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or offer to practice the profession of engineering in this State, or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer unless such person has been duly registered or exempted under the provisions of this Act.

Definitions

Sec. 2. The term professional engineer as used in this Act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined.

The practice of professional engineering within the meaning and intent of this Act includes any professional service, such as consultation, investigation, evaluation, planning, designing, or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and interpretation of engineering data.

The term "Board" as used in this Act shall mean the State Board of Registration for Professional Engineers, provided for by this Act.

State Board of Registration for Professional Engineers—Appointment of members—Terms

Sec. 3. A State Board of Registration for Professional Engineers is hereby created whose duty it shall be to administer the provisions of this Act. The Board shall consist of six (6) professional engineers, who shall be appointed by the Governor of the State, with the advice and consent of the Senate. The members of the first Board shall be appointed within ninety (90) days after this Act becomes effective, to serve the following terms: Two (2) members for two (2) years; two (2) members for four (4) years; and two (2) members for six (6) years, from the date of their appointment or until their successors are duly appointed and qualified. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of the State and he shall serve for a term of six (6) years or until his successor shall be appointed and qualified. Before entering upon the duties of his office each member of the Board shall take the Constitutional Oath of office and the same shall be filed with the Secretary of State. Each member of the Board first appointed hereunder shall receive a certificate of registration under this Act from said Board.

Qualifications of members of board

Sec. 4. Each member of the Board shall be a citizen of the United States and a resident of this State for a period of ten (10) years prior to his appointment, and shall have been engaged in the practice of the profession of engineering for at least ten (10) years, two (2) years of which may be credited for graduation from an approved engineering school. Responsible charge of engineering teaching may be construed as the practice of professional engineering.

Compensation and expenses of board members

Sec. 5. Each member of the Board shall receive the sum of Ten (\$10.00) Dollars per day for each day he is actually engaged in the duties of his office, including time spent in necessary travel, together with all legitimate expenses incurred in the performance of such duties. All per diem and expenses incurred hereunder shall be paid from the "Professional Engineers' Fund" as provided in this law. No money shall ever be paid for the administration of this Act from the General Funds of the State.

Removal of members of board—Vacancies

Sec. 6. The Governor may remove any member of the Board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the Board shall be filled for the unexpired term by appointment by the Governor as provided in this Act.

Organization and meetings of the board

Sec. 7. The Board shall hold a meeting within thirty (30) days after its members are first appointed, and thereafter shall hold at least two (2) regular meetings each year. Special meetings shall be held at such time as the by-laws of the Board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The Board shall elect or appoint annually from its own membership the following officers: a Chairman, a Vice-Chairman, and a Secretary. A quorum of the Board shall consist of not less than four (4) members.

Powers of the board

Sec. 8. The Board shall have the power to make all by-laws and rules, not inconsistent with the Constitution and laws of this State, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The Board shall adopt and have an official seal. The Board shall have such additional power as may be conferred by other provisions of this Act.

Receipts and disbursements

Sec. 9. The Secretary of the Board shall receive and account for all moneys derived under the provisions of this Act, and shall pay the same weekly to the State Treasurer who shall keep such moneys in a separate fund to be known as the "Professional Engineers' Fund". Such fund shall be paid out only by warrant of the State Comptroller upon the State Treasurer, upon itemized vouchers, approved by the Chairman and attested by the Secretary of the Board. All moneys in the "Professional Engineers' Fund" are hereby specifically appropriated for the use of the Board in the administration of this Act. The Secretary of the Board shall give a surety bond to the Governor of the State of Texas in the sum of Two Thousand Five Hundred (\$2,500.00)

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Dollars. The premium on said bond shall be paid out of the "Professional Engineers' Fund". The Secretary of the Board shall receive such salary as the Board shall determine in addition to the compensation and expenses provided for in this Act. The Board shall employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which in the opinion of the Board is reasonably necessary for the proper performance of its duties under this Act. Under no circumstances shall the total amount of warrants issued by the State Comptroller in payment of the expenses and compensation provided for in this Act exceed the amount of the "Professional Engineers' Fund". Provided further, that the salaries paid herein shall not be in excess of salaries paid for similar work in other departments.

Records and reports

Sec. 10. The Board shall keep a record of its proceedings and register of all applications for registration, which register shall show (a) the name, age and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate of registration was granted; (h) the date of the action of the Board; and (i) such other information as may be deemed necessary by the Board.

The records of the Board shall be available to the public at all times and shall be prima facie evidence of the proceedings of the Board set forth therein, and a transcript thereof, duly certified by the Secretary of the Board under seal, shall be admissible in evidence with the same force and effect as if the original was produced.

Annually, as of August 31st, the Board shall submit to the Governor a report of its transaction of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the Board, attested by affidavits of its Chairman and its Secretary.

Roster of registered engineers

Sec. 11. A roster showing the names and places of business of all registered professional engineers shall be prepared by the Secretary of the Board during the month of July of each year, commencing with the month of July, 1938. Copies of this roster shall be mailed to each person so registered, placed on file with the Secretary of State, and furnished to the public upon request.

General requirements for registration

Sec. 12. The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for registration as a professional engineer, to-wit:

(a) Graduation from an approved course in engineering of four (4) years or more in a recognized school or college approved by the Board as of satisfactory standing, and a specific record of an additional four (4) years or more of active practice in engineering work, of a character satisfactory to the Board, indicating that the applicant is competent to be placed in responsible charge of such work; or

(b) Successfully passing a written, or written and oral, examination designed to show knowledge and skill approximating that attained through graduation from an approved four (4) years engineering course; and a specific record of at least eight (8) years of active practice in engineering work of a character satisfactory to the Board and indicating

that the applicant is competent to be placed in responsible charge of such work.

(c) At any time within five (5) years after this Act becomes effective the Board may accept as evidence that the applicant is qualified for registration as a professional engineer a specific record of twelve (12) years or more of active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is qualified to design, to operate, or to supervise construction of engineering work and has had responsible charge of important engineering work for at least five (5) years and provided applicant is not less than thirty-five (35) years of age, and was not practicing professional engineering at the time this Act becomes effective.

(d) After this Act shall have been in effect five (5) years, the Board shall issue certificates of registration only to those applicants who meet the requirements of Section 12, (a), or (b), or Section 21.

(e) Provided, that no person shall be eligible for registration as a professional engineer who is not of good character and reputation; and provided further, that any engineer licensed under this Act shall be eligible to hold any appointive engineering position with the State of Texas.

(f) In considering the qualifications of applicants, responsible charge of engineering teaching may be construed as responsible charge of engineering work. The satisfactory completion of each year of an approved course in engineering in a school or college approved by the Board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of active practice. Graduation in a course other than engineering from a college or university of recognized standing shall be considered as equivalent to two (2) years of active practice; provided, however, that no applicant shall receive credit for more than four (4) years of active practice because of educational qualifications. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as foreman or superintendent shall not be deemed to be active practice in engineering work.

(g) Any person having the necessary qualifications prescribed in this Act to entitle him to registration shall be eligible for such registration though he may not be practicing at the time of making his application.

Applications and registration fees

Sec. 13. Applications for registration shall be on forms prescribed and furnished by the Board, shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical work, and shall contain not less than five (5) references, of whom three (3) or more shall be engineers having personal knowledge of his engineering experience.

The registration fee for professional engineers shall be Twenty-five (\$25.00) Dollars, Fifteen (\$15.00) Dollars of which shall accompany the application, the remaining Ten (\$10.00) Dollars to be paid upon issuance of certificate. When a certificate of qualification issued by the National Bureau of Engineering Registration is accepted as evidence of qualification, the total fee for registration as professional engineer shall be Ten (\$10.00) Dollars.

Examinations

Sec. 14. When oral or written examinations are required, they shall be held at such time and place as the Board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the Board with special reference to the applicant's ability to design and supervise engineering works, which shall insure the

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safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration in professional engineering. A candidate failing on examination may apply for re-examination at the expiration of six (6) months and will be re-examined without payment of additional fees. Re-examination may be granted at any time upon payment of a fee to be determined by the Board.

Certificates, seals

Sec. 15. The Board shall issue a certificate of registration upon payment of registration fee as provided for in this Act, to any applicant, who, in the opinion of the Board, has satisfactorily met all the requirements of this Act. In case of a registered engineer, the certificate shall authorize the practice of professional engineering. Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the Chairman and the Secretary of the Board under seal of the Board. The issuance of a certificate of registration by this Board shall be evidence that the person named therein is entitled to all rights and privileges of a registered professional engineer, while the said certificate remains unrevoked or unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the Board, bearing the registrant's name and the legend "Registered Professional Engineer". Plans, specifications, plats, and reports issued by a registrant shall be stamped with the said seal when filed with public authorities, during the life of the registrant's certificate, but it shall be unlawful for any one to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

Expirations and renewals

Sec. 16. Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the Secretary of the Board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year; such notice shall be mailed at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee of Five (\$5.00) Dollars. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten (10%) per cent for each month or fraction of a month that renewal payment is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

Firms, partnerships, corporations and joint stock associations

Sec. 17. A firm, or a co-partnership, or a corporation, or a joint stock association may engage in the practice of professional engineering in this State, provided such practice is carried on by only professional engineers registered in this State.

Practitioners at time act becomes effective

Sec. 18. At any time within one (1) year after this Act becomes effective, upon due application therefor and the payment of the registration fee of Twenty-five (\$25.00) Dollars for professional engineers, the

Board shall issue a certificate of registration, without oral or written examination, to any professional engineer who shall submit evidence under oath satisfactory to the Board that he is of good character, has been a resident of the State of Texas for at least one (1) year immediately preceding the date of his application, and was practicing professional engineering at the time this Act became effective, and has had responsible charge of work of a character satisfactory to the Board.

After this Act shall have been in effect one (1) year, the Board shall issue certificates of registration only as provided for in Section 12 or Section 21 thereof.

Public work

Sec. 19. After the first day of January, 1938, it shall be unlawful for this State, or for any of its political subdivisions, for any county, city, or town, to engage in the construction of any public work involving professional engineering, where public health, public welfare or public safety is involved, unless the engineering plans and specifications and estimates have been prepared by, and the engineering construction is to be executed under the direct supervision of a registered professional engineer; provided, that nothing in this Act shall be held to apply to any public work wherein the contemplated expenditure for the completed project does not exceed Three Thousand (\$3,000.00) Dollars. Provided, that this Act shall not apply to any road maintenance or betterment work undertaken by the County Commissioners' Court.

Exemptions

Sec. 20. The following persons shall be exempt from the provisions of this Act, to-wit:

(a) A person not a resident of and having no established place of business in this State, practicing or offering to practice here the profession of engineering, when such practice does not exceed in the aggregate more than sixty (60) days in any calendar year; provided, such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act.

(b) A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice herein for more than sixty (60) days in any calendar year the profession of engineering, if he shall have filed with the Board an application for a certificate of registration and shall have paid the fee required by this Act. Such exemption shall continue only for such time as the Board requires for the consideration of the application for registration; provided, that such a person is legally qualified to practice said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act.

(c) An employee or a subordinate of a person holding a certificate of registration under this Act, or any employee of a person exempted from registration by classes (a) and (b) of this section; provided, his practice does not include responsible charge of design or supervision.

(d) Officers and employees of the Government of the United States while engaged within this State in the practice of the profession of engineering for said Government.

(e) Nothing in this Act shall be construed to apply to persons doing the actual work of installing, operating, repairing, or servicing locomotive or stationary engines, steam boilers, Diesel engines, internal combustion engines, refrigeration compressors and systems, hoisting engines;

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electrical engines, air conditioning equipment and systems, or mechanical and electrical equipment and apparatus; nor shall this Act be construed to prevent any citizen from identifying himself in the name and trade of any engineers' labor organization with which he may be affiliated. Provided, however, that nothing in this Act shall be construed as permitting any person other than a licensed professional engineer affixing his signature as such to engineering plans, specifications or estimates.

(f) Nothing in this Act shall be construed to apply to persons erecting or building any private dwelling.

Reciprocity

Sec. 21. The Board may, upon application therefor, and the payment of a fee of Ten (\$10.00) Dollars, issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the National Council of State Boards of Engineering Examiners, or of the National Bureau of Engineering Registration, or of any state or territory or possession of the United States, or any country provided that the requirements for the registration of professional engineers under which said certificate of qualification or registration was issued do not conflict with the provisions of this Act and are of a standard not lower than that specified in Section 12 of this Act.

Revocations and re-issuances of certificates

Sec. 22. The Board shall have the power to revoke the certificate of registration of any registrant who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration;

(b) Any gross negligence, incompetency, or misconduct in the practice of professional engineering as a registered professional engineer.

In determining any such charges the Board shall proceed upon sworn information furnished it by any reliable resident of this State; such information shall be in writing and shall be duly verified by the person familiar with the facts therein charged, and three (3) copies of the same shall be filed with the Secretary of the Board. Upon receipt of such information the Board, if it deems the information sufficient to support further action on its part, shall make an order setting the charges therein contained for hearing at a specified time and place, and the Secretary of the Board shall cause a copy of the Board's order and of the information to be served upon the accused at least thirty (30) days before the date appointed in the order for the hearing. The accused may appear in person or by counsel, or both, at the time and place named in the order and make his defense to the same. If the accused fails or refuses to appear, the Board may proceed to hear and determine the charges in his absence. If the accused pleads guilty, or upon a hearing of the charges the Board and a majority of its members shall find them to be true, it may enter an order revoking the certificate of registration of such registered professional engineer. The Board shall have the power, through its Chairman or Secretary, to administer oaths and compel the attendance of witnesses before it as in civil cases in the district court by subpoena issued over the signature of the Secretary and seal of the Board. If the accused desires the evidence to be preserved and shall so inform the Board before the hearing is begun and shall deposit with the Board such a sum of money as the Board may deem reasonably necessary for the employment of a stenographer, then the Board shall employ such stenographer and when so employed he shall be the official stenographer of the Board for the purpose of reporting the evidence and proceedings of such Board.

In proceedings under this section, as under others, a majority of the Board shall constitute a quorum.

When the Board has completed such hearing it shall make a record of its findings and order and shall cause a certified copy thereof to be forwarded to the accused.

Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration by the Board, as hereinabove authorized, shall have the right to file suit within thirty (30) days after receiving notice of the Board's order revoking his certificate of registration, in the district court of the county of his residence, or of the county in which the alleged offense relied upon as grounds for revocation took place, to annul or vacate the order of the Board revoking the certificate of registration. Said suit shall be filed against the Board as defendant, and service of process may be had upon its Chairman or Secretary. The suit shall be tried as other civil causes, the burden of proof devolving upon the plaintiff assailing the order of revocation.

The Board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, provided four (4) or more members of the Board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the Board, and a charge of Three (\$3.00) Dollars shall be made for such issuance.

Violations and penalties

Sec. 23. On or after the first day of January, 1938, any person who shall practice, or offer to practice, the profession of engineering in this State without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member thereof in obtaining a certificate of registration, or any person who shall violate any of the provisions of this Act, be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be confined in jail for a period of not exceeding three (3) months, or both. Each day of such violation shall be a separate offense.

The Board is charged with the duty of aiding in the enforcement of the provisions of this Act, and any member of the Board may present to a prosecuting officer complaints relating to violations of any of the provisions of this Act; and the Board through its members, officers, counsel and agents may assist in the trial of any cases involving alleged violation of said statutes, subject to the control of the prosecuting officers.

The Attorney General or his assistants shall act as legal adviser of the Board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act; provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such.

Invalid portions

Sec. 24. If any article, section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and such section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Repeal of conflicting legislation with proviso

Sec. 25. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed. Provided, however, that this Act shall not be construed as repealing or amending any law affecting or regulating licensed state land surveyors; and such licensed state land surveyors in performing their duties as such shall not be subject to the provisions of this Act; nor shall this Act be construed to affect or prevent the practice of any other legally recognized profession by the members of such profession licensed by the State or under its authority. [Acts 1937, 45th Leg., S.B. # 74.]

Effective May 28, 1937.

Section 26 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining and regulating the practice of professional engineering in the State of Texas; providing for the creation of the State Board of Registration for Professional Engineers and prescribing their powers and duties, terms of office, qualifications and for payment of their compensation and expenses out of the "Professional Engineering Fund" as provided in this law; providing for removal of members of the Board for cause; providing for creation of "Professional Engineers Fund" and appropriating money therefrom; prescribing requirements for registration of professional engineers; providing for registration fees and for examinations of applicants for certificate of registration and for issuance and use of certificates and seals; providing for issuance of renewal certificates on payment of renewal fees; providing that a firm, copartnership, corporation or joint stock association may engage in the practice of professional engineering in this State provided such practice is carried on by only professional engineers registered in this State; providing for issuance, within one year after this Act becomes effective, of certificates, on certain conditions, to residents of Texas practicing professional engineering in Texas at time this Act becomes effective; providing that after January 1, 1938, it shall be unlawful for this State, or any of its political subdivisions, or any county, city or town, to engage in the construction of public work involving professional engineering, unless plans, specifications and estimates have been prepared for the construction to be executed under direct supervision of a registered

professional engineer, provided that such provision shall not apply to any public work wherein the contemplated expenditure for a completed project does not exceed Three Thousand (\$3,000.00) Dollars; providing for certain exemptions; prescribing certain reciprocity provisions for professional engineers holding certificates of registration as such issued under authority of National Council of State Boards of Engineering Examiners, or National Bureau of Engineering Registration, or any state or territory or possession of the United States, or any country, under certain conditions; providing the grounds on which the Board may revoke certificates of registration and for hearings on such charges; providing for suit against the Board in certain district courts to annul or vacate order of the Board revoking certificate of registration; defining as a misdemeanor certain acts committed after the first day of January, 1938, prescribing the penalties for such violations and that each day of such violation shall be a separate offense; prescribing duties of the Board in connection with enforcement of provisions of this Act and duties of Attorney General and his assistants as legal advisers of the Board, declaring certain legislative intent in respect to this Act; repealing conflicting laws, provided, however, that this Act shall not be construed as repealing or amending any law affecting or regulating licensed state land surveyors and that licensed state land surveyors in performing their duties as such shall not be subject to the provisions of this Act; and further providing that this Act shall not be construed to affect or prevent the practice of any other legally recognized profession by members of such profession licensed by the State, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #74.]

TITLE 54—ESTATES OF DECEDENTS

CHAPTER TEN—INVENTORY, APPRAISEMENT AND LIST OF CLAIMS

Art.
3410—a. List of claims attached to inventory [New].

Art.
3410—b. Filing list of debts and claims with reference to inheritance taxes [New].

Art. 3410-a. List of claims attached to inventory

Such executor or administrator shall also make and attach to said inventory a full and complete list of all claims due or owing to the testator or intestate, stating the nature of such claims, the names of the parties owing the same, the dates thereof, and the dates when due, and the rate of interest each one bears, and shall also specify what portion of such claims is the separate property of the deceased and what portion, if any, is represented as common property. [Acts 1937, 45th Leg., H.B. # 666, § 1.]

Effective April 23, 1937.

Section 2 of this act declared an emergency making the act effective on and after its passage.

Art. 3410-b. Filing list of debts and claims with reference to inheritance taxes

Every executor, administrator, or legal representative of any estate shall make and file with the County Clerk of the County in which such estate is pending and with the Comptroller of the State of Texas, in addition to the information now required by law pertaining to inheritance taxes, a statement showing a full and complete list of all debts and claims due or owing by the testator or intestate known by such executor, administrator, or legal representative at the time of the approval of the inventory and appraisal by the Probate Judge, with reference to inheritance taxes as now required by law, showing the nature of such claims, the names of the parties to whom such debts or claims are owing, the dates thereof, the dates when due, the rate of interest each one bears, and what portion of such claims is chargeable to the separate property of the deceased, and what portion, if any, of such claims is chargeable to the common property of the deceased. Provided that the provisions of this Act shall in nowise repeal any of the provisions of the law now pertaining to inheritance taxes, but shall be cumulative thereto. [Acts 1937, 45th Leg., H.B. # 666, § 1.]

Effective April 23, 1937.

See note to article 3410a.

CHAPTER TWENTY-FOUR—PARTITION AND DISTRIBUTION

Art. 3605. [3534] [2161] [2106] Guardians for minors, etc.

Where there are minors, or non compos mentis, having no guardian in this State who are entitled to a portion of an estate, or whose guardians also have an interest in the estate, the Court shall appoint a guardian ad litem to represent such minors, or non compos mentis and shall appoint an attorney to represent nonresident and unknown parties, having

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

an interest if there be any. [As amended Acts 1937, 45th Leg., H.B. # 938, § 1.]

Amendment of 1937, effective May 1, 1937.

Section 2 of the amendatory acts of 1937 declared an emergency making the act effective on and after its passage.

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

Art.

3737c. Certified copies of records or instruments pertaining to oil industry [New].

1. WITNESSES AND EVIDENCE

Art. 3737c. Certified copies of records or instruments pertaining to oil industry

Certified copies of well logs, and records, plugging records, oil and gas production records or reports and all other instruments pertaining to the drilling, completion, operation, abandonment, or plugging of oil and/or gas wells, in this State, required by Statute or by rules heretofore or hereafter adopted by the Railroad Commission of Texas, to be filed with the Railroad Commission of Texas, and which have been heretofore or may be hereafter filed with said Railroad Commission of Texas, shall be admissible in evidence. Such certificate to any such certified copies may be made by any member of the Railroad Commission of Texas, or by the Secretary of said Commission. [Acts 1937, 45th Leg., H.B. # 181, § 1.]

Effective June 8, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the admissibility in evidence of certified copies of certain in-

struments required by Statute or by Rules of the Railroad Commission of Texas to be filed with the Railroad Commission of Texas; authorizing certificates to such copies to be made by certain officials therein specified; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #181.]

TITLE 60—FEEDING STUFF

Art. 3881. Weights

Feeding stuff shall have the following standard net weights per sack or container: one hundred and forty-three pounds, one hundred and thirty-three and one-third pounds, one hundred and twenty-five pounds, one hundred pounds, or the following fractions of one hundred: three-fourths, one-half, one-fourth, one-sixth, one-eighth, one-tenth, one-twelfth, one-sixteenth, and one-twentieth. No tax tags shall be issued for any feeding stuff which does not conform to the weights herein prescribed. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #135, § 1.]

Effective Oct. 27, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

Art.	Art.
3883c. County judge, sheriff, district attorney, assessor, and other officers in counties of 250,000 to 325,000 population [New].	3912e—1. Compensation of designated district, county, and precinct officers in counties of 300,000 [New].
3887a. Compensation of county attorneys in counties of 48,540 to 48,800 population [New].	3912e—2. Compensation of certain district, county, and precinct officers in counties of 355,000; appointment of assistants to district attorneys [New].
3901—1. Maximum fees of collectors—assessors in counties of 13,350 to 13,400 population [New].	3912e—3. Salary of county judge in counties of 12,227 to 12,230 [New].

Article 3883. [3881 to 3883] Maximum fees

Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this Article shall be as follows:

2. In counties containing as many as twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, and in which there is no city containing twenty-five thousand (25,000) inhabitants; County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-seven Hundred and Fifty Dollars (\$2750) each; Justice of the Peace and Constable, Fifteen Hundred Dollars (\$1500) each; provided, however, that in all counties containing a population of not less than twenty-nine thousand, five hundred (29,500), nor more than thirty thousand (30,000), according to the last preceding Federal Census, the Justice of the Peace shall be allowed to retain out of the fees collected by such officer the sum of Twenty-four Hundred Dollars (\$2400) per annum. [As amended Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 11; Acts 1931, 42nd Leg., p. 822, ch. 340, § 1; Acts 1933, 43rd Leg., p. 734, ch. 220, § 1; Acts 1937, 45th Leg., H.B. # 1086, § 1.]

Amendment of 1937 effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Acts 1937, 45th Leg., H.B. #1086 makes no reference to the prior amendment by Acts 1937, 45th Leg., H.B. #1155 and accordingly both amendments are published in full.

2. In counties containing as many as twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, and in which there is no city containing twenty-five thousand (25,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-seven Hundred and Fifty Dollars (\$2750) each; Justice of the Peace and Constable, Fifteen Hundred Dollars (\$1500) each; provided, however, that in all counties containing a population of not less than twenty-nine thousand, five hundred (29,500), nor more than thirty thousand (30,000), according to the last preceding Federal Census, Constables shall be allowed to retain out of the fees collected by such officer the sum of Twenty-four Hundred Dollars (\$2400) per annum. [As amended Acts 1930, 41st Leg., 4th C.S., p. 30, ch. 20, § 11; Acts 1931, 42nd Leg., p. 822, ch. 340, § 1; Acts 1933, 43rd Leg., p. 734, ch. 220, § 1; Acts 1937, 45th Leg., H.B. # 1155, § 1.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Amendment of 1937, effective May 22, 1937.

Section 3 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Acts 1937, 45th Leg., H.B. #1155 makes no reference to the prior amendment by Acts 1937, 45th Leg., H.B. # 1086 and accordingly both amendments are published in full.

8. Provided that in any county in this State having a population of not less than seventy-seven thousand, seven hundred and fifty (77,750) nor more than eighty-eight thousand, seven hundred and fifty (88,750), according to the last preceding Federal Census of the United States, Justices of the Peace and Constables shall have and receive as fees of office Twenty-seven Hundred and Fifty Dollars (\$2750) each per annum. Provided that such Justices of the Peace and Constables shall also receive excess fees in addition thereto by retaining one-third of such excess fees until such one-third of such excess fees, together with the said amount of Twenty-seven Hundred and Fifty Dollars (\$2750), equals the sum of Three Thousand Dollars (\$3,000). [As added Acts 1937, 45th Leg., H.B. # 1155, § 2.]

Effective May 22, 1937.

Art. 3883b. [Repealed by Acts 1937, 45th Leg., H.B. #971, § 1]

Effective May 10, 1937.

Art. 3883c. County judge, sheriff, district attorney, assessor, and other officers in counties of 250,000 to 325,000 population

Section 1. The County Judge, Sheriff, District Attorney, or Criminal District Attorney, as the case may be, County Clerk, District Clerk, and the Assessor and Collector of Taxes; in any county having a population of more than two hundred fifty thousand (250,000) inhabitants, and less than three hundred twenty-five thousand (325,000) inhabitants, according to the last preceding, or future Federal Census, shall receive a salary of Seven Thousand Four Hundred (\$7,400.00) Dollars per annum from the Officer's Salary Fund, or General Fund, as the case may be; and the Seven Thousand Four Hundred (\$7,400.00) Dollars salary shall include the compensation to the County Judge allowed in Senate Bill 186, 45th Legislature, Regular Session, Acts 1937;¹ the compensation herein fixed for the Sheriff shall be exclusive of any reward received for the apprehension of criminal fugitives from justice, and reward received from the recovery of stolen property; and the per capita payments made by the State to the Counties in lieu of felony fees formerly paid to the officers shall be apportioned by the Commissioners' Courts as follows: after paying the fees to precinct officers rendering service in felony cases, pay to the District Clerk and the Sheriff the same amount each officer earned in felony fees during the year 1935, and the remaining balance shall be paid to the District Attorney or Criminal District Attorney, as the case may be; and in all such Counties the County Auditor shall receive a salary of Six Thousand (\$6,000.00) Dollars per annum, to be paid from the General Fund of the County, and the County Commissioners in such Counties shall receive a salary of Forty-eight Hundred (\$4,800.00) Dollars annually, payable monthly from the Road and Bridge Fund of such County.

Sworn statement; failure to file; proceedings to collect unreported fees

Sec. 2. In all counties having a population in excess of two hundred fifty thousand (250,000) inhabitants, and less than three hundred twenty-five thousand (325,000) inhabitants, each District, County, and Precinct

Officer, except the County Treasurer and County Commissioners, at the close of each fiscal year (December 31) shall make to the District Court of such County a sworn statement in triplicate, on forms designed and approved by the County Auditor, a copy of which statement shall be forwarded to the State Auditor by the Clerk of the District Court of said County within fifteen (15) days after the same has been filed in his office, and one copy shall be filed with the County Auditor. Said report shall show the amount of fees, commissions, and compensations collected by him during the fiscal year and their disposal. Said report shall show the names of Deputies and Assistants employed by him during the year, the time served, and the amount paid or to be paid each. Said report shall be filed not later than January 15th following the close of the fiscal year. For failure to file said report said officer shall be subject to removal from office. The County Auditor shall audit such report, also any and all books authorized by Section "N" or any other Section of this Act daily, monthly, or annually that he shall deem necessary and shall file his report with the Commissioners' Court and file with the District or Criminal District Attorney a detailed report of all fees, commissions, and compensation collected by said Officers and not reported by them; also list of cases filed since January 1, 1936, in which any County or District Clerk or Justice of the Peace has not taken adequate security for costs or required a pauper's oath.

It shall be the duty of the District or Criminal District Attorney to institute proceedings for the collection of such fees, commissions, and compensations collected by such Officer and not reported, all of which are declared to be the property of the county and shall be deposited in the General Fund.

Repeal of conflicting laws

Sec. 3. It is hereby declared to be the intention of the Legislature that the provisions of this Section control in all things as to the Counties affected hereby, and any and all laws in conflict herewith, are hereby expressly repealed to the extent of each conflict. [Acts 1937, 45th Leg., S.B. # 424.]

¹ Article 5142b.

Effective June 9, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act relating to the compensation and annual report of the County Judge, Sheriff, District Attorney or Criminal District Attorney, as the case may be, the Assessor and Collector of Taxes, County Clerk, and District Clerk, in all counties having

a population in excess of two hundred fifty thousand (250,000), and less than three hundred twenty-five thousand (325,000) inhabitants, according to the last preceding, or any future, Federal Census, and also relating to the compensation of County Auditors and County Commissioners in all such Counties; repealing all laws, or parts of laws, in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #424.]

Art. 3887a. Compensation of county attorneys in counties of 48,540 to 48,800 population

In all counties in the State of Texas having a population of more than forty-eight thousand five hundred and forty (48,540) and less than forty-eight thousand eight hundred (48,800), according to the last preceding or any future Federal Census, where the Commissioners' Court shall have determined, or shall determine, to compensate the county attorney of such counties upon an annual salary basis according to law, such Court shall fix the salary of such county attorneys at not to

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

exceed Two Thousand Four Hundred (\$2,400.00) Dollars per annum. [Acts 1937, 45th Leg., 2nd C.S., S.B. #24, § 1.]

Effective Nov. 8, 1937.

This act was filed Nov. 8, 1937, without Governor's signature.

Sec. 2 of the Act cited to the text provided that: "All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only." Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of the county attorneys in all counties in the State of Texas having a population of more than forty-eight thousand five hundred and forty (48,540) and less than forty-eight thousand eight hundred (48,800), according to the last preceding or any future Federal Census, repealing all laws and parts of laws in conflict herewith to the extent of such conflict only, and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., S.B. # 24.]

Art. 3899. [3897] Expense account

(a) At the close of each month of his tenure of office each officer named herein who is compensated on a fee basis shall make as part of the report now required by law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office, such as stationery, stamps, telephone, premiums on officials' bonds, including the cost of surety bonds for his Deputies, premium on fire, burglary, theft, robbery insurance protecting public funds, traveling expenses and other necessary expenses. The Commissioners' Court of the county of the Sheriff's residence may, upon the written and sworn application of the Sheriff stating the necessity therefor, purchase equipment for a bureau of criminal identification such as cameras, finger print cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas and other equipment in keeping with the system in use by the Department of Public Safety of this State or the United States Department of Justice and/or Bureau of Criminal Identification. If such expenses be incurred in connection with any particular case, such statement shall name such case. Such expense account shall be subject to the audit of the County Auditor, if any, otherwise by the Commissioners' Court; and if it appears that any item of such expense was not incurred by such officer or such item was not a necessary expense of office, such item shall be by such auditor or court rejected, in which case the collections of such item may be adjudicated in any court of competent jurisdiction. The amount of salaries paid to Assistants and Deputies shall also be clearly shown by such officer, giving the name, position and amount paid each; and in no event shall any officer show any greater amount than actually paid any such Assistant or Deputy. The amount of such expenses, together with the amount of salaries paid to Assistants, Deputies and Clerks shall be paid out of the fees earned by such officer. The Commissioners' Court of the county of the Sheriff's residence may, upon the written and sworn application of the Sheriff stating the necessity therefor, allow one or more automobiles to be used by the Sheriff in the discharge of his official duties, which, if purchased by the County, shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county and they shall be and remain the property of the county. The expense of maintenance, depreciation and operation of such automobiles as may be allowed, whether purchased by the county or owned by the Sheriff or his Deputies personally, shall be paid for by the Sheriff and the amount thereof shall be reported by the Sheriff, on the report above mentioned, in the same manner as herein provided for other expenses.

(b) Each officer named in this Act, where he receives a salary as compensation for his services, shall be empowered and permitted to

purchase and have charged to his county all reasonable expenses necessary in the proper and legal conduct of his office, premiums on officials' bonds; premium on fire, burglary, theft, robbery insurance protecting public funds and including the cost of surety bonds for his Deputies, such expenses to be passed on, pre-determined and allowed in kind and amounts, as nearly as possible, by the Commissioners' Court once each month for the ensuing month, upon the application by each officer, stating the kind, probable amount of expenditure and the necessity for the expenses of his office for such ensuing month, which application shall, before presentation to said court, first be endorsed by the County Auditor, if any, otherwise the County Treasurer, only as to whether funds are available for payment of such expenses. The Commissioners' Court of the county of the Sheriff's residence may, upon the written and sworn application of the Sheriff stating the necessity therefor purchase equipment for a bureau of criminal identification, such as cameras, finger print cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas and other equipment in keeping with the system in use by the Department of Public Safety of this State, or the United States Department of Justice and/or Bureau of Criminal Identification.

Such purchases shall be made by each officer, when allowed, only by requisition in manner provided by the County Auditor, if any, otherwise by the Commissioners' Court. Each officer shall, at the close of each month of his tenure of office, make an itemized and sworn report of all approved expenses incurred by him and charged to his county, accompanying such report with invoices covering such purchases and requisitions issued by him in support of such report. If such expenses be incurred in connection with any particular case, such report shall name such case. Such report, invoices and requisitions shall be subject to the audit of the County Auditor, if any, otherwise by the Commissioners' Court, and if it appears that any item was not incurred by such officer, or that such item was not a necessary or legal expense of such office, or purchased upon proper requisition, such item shall be by said County Auditor or court rejected, in which case the payment of such item may be adjudicated in any court of competent jurisdiction. All such approved claims and accounts shall be paid from the Officers' Salary Fund unless otherwise provided herein.

The Commissioners' Court of the county of the Sheriff's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the Sheriff in the discharge of official business, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county and they shall be reported and paid in the same manner as herein provided for other expenses.

Where the automobile or automobiles are owned by the Sheriff or his Deputies, they shall be allowed four (4¢) cents for each mile traveled in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation and operation of such automobile. Such mileage shall be reported and paid in the same manner prescribed for other allowable expenses under the provisions of this section. No automobile shall be allowed for any Deputy Sheriff except those regularly employed in outside work. It shall be the duty of the County Auditor, if any, otherwise the Commissioners' Court, to check the speedometer reading of each of said automobiles, owned by the county once each month and to keep a public record thereof; no automobile owned by the county shall be used for any private purpose.

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[As amended Acts 1933, 43rd Leg., p. 734, ch. 220, § 4; Acts 1935, 44th Leg., p. 718, ch. 311, § 1; Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 11; Acts 1937, 45th Leg., S.B. # 270, § 1.]

Effective June 11, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided

that the act should take effect from and after its passage.

(c). Provided that in all counties of this State having a population of not less than thirty thousand, nine hundred (30,900) and not more than thirty thousand, nine hundred and fifty (30,950) according to the last preceding Federal Census wherein there is no District Attorney and the Criminal District Attorney performing the duties of a District Attorney, such Criminal District Attorney performing the duties of a District Attorney shall be empowered and permitted to incur reasonable and necessary expenses in investigating crime and accumulating evidence in criminal cases; and shall be allowed Three (3) Cents a mile for each mile traveled by him in an automobile furnished by him in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation, and operation of such automobile; such expenses shall be reported to the Commissioners Court of each county affected by this Act as other expenses are reported and shall be paid by said Commissioners Court as such other expenses are paid. [As added Acts 1937, 45th Leg., 1st C.S., H.B. # 57, § 1.]

Effective July 7, 1937.

Section 2 of Act 1937, cited to the text provided that: "The provisions of this Act shall be cumulative of all laws not

in conflict herewith." Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 3901—1. Maximum fees of collectors—assessors in counties of 13,350 to 13,440 population

Section 1. In all counties having a population of not less than thirteen thousand, three hundred and fifty (13,350) and not more than thirteen thousand, four hundred and forty (13,440), according to the most recent available Federal Census and each available Federal Census thereafter, the Assessors-Collectors of Taxes of such counties shall be entitled to receive the fees of office earned by their offices in accordance with the provisions of the Maximum Fee Bill; provided, however, that in such counties the maximum amount of fees which may be retained by such officer, including all excess fees, shall be Four Thousand Dollars (\$4,000), provided such office earns sufficient fees to pay this amount.

Sec. 2. Each Assessor-Collector of Taxes earning fees in excess of Four Thousand Dollars (\$4,000) shall make disposition of such excess in accordance with the provisions of the Maximum Fee Bill. All Assessors-Collectors in counties hereby affected shall be entitled to deputies and assistants in the manner authorized in the Maximum Fee Bill. [Acts 1937, 45th Leg., 1st C.S., H.B. # 73.]

Effective July 7, 1937.

Section 3 of Act 1937, cited to the text, amended art. 1645.

Section 4 provided that: "If any section, sentence or any part whatever of this Act should be held to be unconstitutional or invalid, the same shall not affect the remaining portion of this Act, and it is hereby declared that the Legislature would have passed that part which is constitutional and valid." Section 5 repeals all conflicting laws and parts of laws. Section 6 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the maximum amount of fees that may be retained by the Assessor-Collector of Taxes in all counties having a population of not less than thirteen thousand, three hundred and fifty (13,350) and not more than thirteen thousand, four hundred and forty (13,440), according to the most recent available Federal Census and each available Federal Census thereafter; providing for disposition of excess fees and for deputies and assistants in accordance with the provisions of the Maximum Fee Bill; amending Article 1645, Title 34, of the

Revised Civil Statutes of the State of Texas of 1925, as amended by Chapter 35, General and Special Laws passed at the First Called Session of the Fortieth Legislature, as amended by Chapter 28, General and Special Laws passed at the First Called Session of the Forty-first Legislature, as amended by Chapter 15,

General and Special Laws passed at the Second Called Session of the Forty-second Legislature; providing a saving clause; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. # 73.]

Art. 3902. [3903] Deputies—appointment of

2. In counties having a population of twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, first assistant or chief deputy not to exceed Two Thousand Dollars (\$2,000) per annum; other assistants, deputies, or clerks not to exceed Seventeen Hundred Dollars (\$1700) per annum each. Provided, however, that in all counties containing a population of not less than thirty thousand (30,000) nor more than thirty-seven thousand, five hundred (37,500), according to the last preceding Federal Census, and having a valuation in excess of Eighty-five Million Dollars (\$85,000,000), and in all counties having an assessed valuation of not less than Twenty-seven Million, Five Hundred Thousand Dollars (\$27,500,000) nor more than Twenty-seven Million, Seven Hundred Thousand Dollars (\$27,700,000), according to the last approved tax roll, and containing a population of not less than fifty-three thousand, nine hundred (53,900) nor more than fifty-four thousand (54,000), according to the last preceding Federal Census, four (4) deputies in the Tax Collector and Assessor's office may receive not to exceed Twenty-four Hundred Dollars (\$2400) per annum each, the remainder of the deputies in said office shall receive not exceeding Seventeen Hundred Dollars (\$1700) per annum each. [As amended, Acts 1937, 45th Leg., H.B. # 1111, § 1.]

Effective June 9, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided

that the act should take effect from and after its passage.

Sec. 3a. In counties having a population of not less than forty-eight thousand nine hundred (48,900) and not more than forty-nine thousand (49,000) inhabitants, according to the preceding Federal Census, the County Judge may employ one person as office assistant, bookkeeper and stenographer at a salary to be fixed by the County Judge not to exceed Eighteen Hundred (\$1,800.00) Dollars per annum, in twelve equal monthly installments out of the general fund of the county. [As added Acts 1937, 45th Leg., 2nd C.S., S.B. #10, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

4a. In counties having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, according to the preceding Federal Census and containing a city of not less than fifty-two thousand (52,000) inhabitants according to the preceding Federal Census, heads of departments may be allowed by the Commissioners Court, when in their judgment such allowable is justified, the sum of Two Hundred Dollars (\$200) per annum in addition to the amount hereinbefore authorized to either First Assistant or Chief Deputy, or other Assistants, Deputies or Clerks, when such heads of departments sought to be appointed shall have previously served the county or political subdivision thereof for not less than two (2) continuous years; provided no heads of departments shall be created except where the persons ought to be appointed shall be in actual charge of some department, with Deputies or Assistants, under his supervision, or a department ap-

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proved by the Court, and only in offices capable of a bona fide subdivision into departments. [As added Acts 1937, 45th Leg., H.B. # 145, § 1.]

Acts 1937, 45th Leg., H.B. #145, became a law without Governor's signature and was filed May 5, 1937.

Section 2 of Act of 1937 is the emergency section.

7. That in all counties in this State having a population of not less than thirty-nine thousand, four hundred and ninety-six (39,496) and not more than forty thousand (40,000), according to the last preceding Federal Census, first assistant county attorneys shall be entitled to a salary of not less than Sixteen Hundred and Twenty Dollars (\$1620) per annum nor more than Nineteen Hundred and Twenty Dollars (\$1920) per annum, to be set by the Commissioners Court of the County. The amount of the salary shall be paid on the first of each month and in twelve (12) equal monthly payments. [As added Acts 1937, 45th Leg., H.B. # 1029, § 1.]

Effective April 14, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Acts 1937, 45th Leg., S.B. #336 which

purports to amend article 3902, Rev.St. 1925, as amended by Acts 1935, 44th Leg. 2nd C.S., p. 1762, ch. 465 is set out in article 3912e, section 16.

[Art. 3912e. Method of compensation of district and certain designated county and precinct officers]

[Additional fees of precinct officers]

Sec. 2a. In all counties of this State containing a population of less than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, wherein the precinct officers are compensated on a salary basis under the provisions of this Act, such precinct officers shall receive, in addition to the salary fixed by the Commissioners Court, all fees, commissions, or payments for performing marriage ceremonies and for acting as registrar for the Board of Vital Statistics, and for acting as ex-officio notary public. [Acts 1935, 44th Leg., 2nd C.S., p. 1762, ch. 465, § 2-a, as added Acts 1937, 45th Leg., H.B. # 748, § 1.]

Acts 1937, 45th Leg., H.B. #748, § 1, became a law without Governor's signature and was filed April 16, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

[Fees continued until otherwise determined in counties between 15,140 and 15,160 population; additional allowance]

Sec. 16. In counties having a population of not less than fifteen thousand one hundred and forty (15,140) and not more than fifteen thousand one hundred and sixty (15,160) inhabitants according to the last preceding Federal Census, all county officers shall continue to be compensated for their services on a fee basis until the Commissioners' Court shall have determined otherwise, in accordance with the provisions of Section 2 of this Act. Provided that in counties having a population of not less than fifteen thousand one hundred and forty (15,140) and not more than fifteen thousand one hundred and sixty (15,160) inhabitants according to the last preceding Federal Census heads of departments may be allowed by the Commissioners' Court, when such allowance is justified, the sum of Two Hundred (\$200.00) Dollars per annum in addition to the regular salary when such heads of departments so to be appointed shall have previously served the county or political

subdivision thereof for not less than two continuous years. [As amended Acts 1937, 45th Leg., S.B. # 336, § 1.]

Amendment of 1937 effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

[Provision applicable to counties in excess of 190,000]

Sec. 19. * * *

(c) The term "Precinct Officers" as used in this Section means Justices of the Peace and Constables.

Such Precinct Officers shall continue to be compensated for their services on a fee basis until the Commissioners' Court shall have determined otherwise in accordance with the provisions of this section.

The annual fees that may be retained by any such Precinct Officer shall be Four Thousand (\$4,000.00) Dollars each; provided that in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, such Precinct Officers may retain not to exceed Four Thousand, Five Hundred (\$4,500.00) Dollars each.

All fees and commissions earned by such official shall be applied first to the payment of his Deputies, authorized expenses of his office, and to make up the maximum provided for such officers.

All fees and commissions over and above the amount necessary to pay authorized expenses and Deputies' salaries, and to make up the maximum compensation above provided for, shall be deemed excess fees, and all excess fees not permitted to be retained shall be paid into the General Fund of the county.

Delinquent fees may be used to defray the salaries of Deputies if current fees are insufficient for that purpose; and may be used also to make up the maximum compensation, exclusive of excess fees, allowed to such officers for the fiscal year within which such fees were earned. Delinquent fees collected in excess of the amount above provided for shall be paid by the Officer collecting the same into the General Fund of the county.

Precinct Officers, as defined in this section, shall be compensated after an order duly enacted by the Commissioners' Court as herein provided, on an annual salary basis from said Officer's Salary Fund; such salaries shall be fixed by the Commissioners' Court at a reasonable sum not to exceed Four Thousand (\$4,000.00) Dollars each; provided that in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, such salaries shall be fixed by the Commissioners' Court at a reasonable sum not to exceed Four Thousand, Five Hundred (\$4,500.00) Dollars each; provided further that in such counties in which the Commissioners' Court determines to place Justices of the Peace and Constables on a salary basis, said Commissioners' Court shall not be required to place said salaries in all precincts within the county at equal amounts, but said Commissioners' Court shall have discretion to determine the amount of salary to be paid to each of said Justices of the Peace and to each of said Constables in the several precincts in said counties within the limitations hereinabove set out. In counties where the Commissioners' Court determine to place the Justices of the Peace on a salary basis the Justice of the Peace shall receive in addition thereto all fees, commissions, or payments for performing marriage ceremonies and for acting as Registrar for the Board of Vital Statistics and when acting as Ex-officio Notary Public. [As amended Acts 1937, 45th Leg., S.B. # 374, § 1.]

Effective March 5, 1937.

The title and sections 1, 1a, 1b, of the amendatory act of 1937, 45th Leg., S.B. #

374, amended Acts 1935, 44th Leg., First Called Session, instead of Second Called Session.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of laws to the extent of such conflict only. Section 3 declared an emergency and pro-

vided that the act should take effect from and after its passage.

See, also, art. 3912e—2 as to salaries in counties of over 355,000 population.

(d) The County Judge, Sheriff, District Attorney or Criminal District Attorney, as the case may be, District Clerk, County Clerk, and Assessor and Collector of taxes shall receive a salary of Six Thousand, Five Hundred (\$6,500.00) Dollars per annum from the Officer's Salary Fund herein provided for; provided that in counties having a population of more than 355,000 inhabitants, according to the last preceding or any future Federal Census, the said officers shall receive a salary of Seven Thousand, Four Hundred (\$7,400.00) Dollars per annum from the said Officer's Salary Fund. The compensation herein fixed for the Sheriff or Constable shall be exclusive of any reward received for the apprehension of criminal fugitives from justice and rewards received for the recovery of stolen property. The County Commissioners in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, shall each receive a salary of Four Thousand Eight Hundred (\$4,800.00) Dollars per annum, and said salaries shall be paid in equal monthly installments, three-fourths ($\frac{3}{4}$) out of the Road and Bridge Fund and one-fourth ($\frac{1}{4}$) out of the General Fund of the county. The Judge of the County Court at Law of Harris County, Texas and the Judge of the County Court at Law No. 2 of Harris County, Texas each shall receive a salary of Six Thousand (\$6,000.00) Dollars per annum to be paid out of the County Treasury by the Commissioners' Court in equal monthly installments. [As amended Acts 1937, 45th Leg., S.B. # 374, § 1-a.]

Effective March 5, 1937.

See, also, art. 3912e—2 as to salaries in counties in excess of 355,000 population.

(e) The Commissioners' Court of each county shall determine annually the salary to be paid to the County Treasurer at a reasonable sum not to exceed Three Thousand, Six Hundred (\$3,600.00) Dollars per annum; provided that in counties having a population in excess of 355,000 inhabitants, according to the last preceding or any future Federal Census, the salary to be paid to the County Treasurer shall not exceed Three Thousand, Nine Hundred (\$3,900.00) Dollars per annum. Said Treasurer shall be allowed to appoint one Assistant at a reasonable salary not to exceed One Thousand, Eight Hundred (\$1,800.00) Dollars per annum; and said Court may allow one additional Assistant upon adequate proof of necessity at a reasonable salary not to exceed One Thousand, Five Hundred (\$1,500.00) Dollars per annum. Said Assistants shall be appointed by the Treasurer and shall take the usual oath of office and, in addition thereto, shall give such surety bond as may be required by the County Treasurer or by the Commissioners' Court. Said Assistants shall have authority to do and perform in the name of the Treasurer such acts of a clerical or ministerial character as may be required of them by the County Treasurer. The County Treasurer may designate, subject to the approval of the Commissioners' Court, a named person to act for him and in his stead when he shall be absent, unavoidably detained or incapacitated. The particulars justifying such appointment shall be placed before the Commissioners' Court and such Court may require any proof in connection therewith desired. Upon approval of the Court of the appointment of the person so designated, and the recording of such appointment in the minutes of the Court, thereupon such person may act for such Treasurer during such period of absence, detention or incapacity; provided, however, that such appointment shall not become effective until such named person shall have given a surety

bond in favor of the county and the County Treasurer as their interests may appear and in such amounts as the Commissioners' Court may require. [As amended Acts 1937, 45th Leg., S.B. # 374, § 1-b.]

Effective March 5, 1937.

See, also, art. 3912e—2 as to salaries in counties in excess of 355,000 population.

(f) The district attorney or criminal district attorney shall be authorized to appoint nine (9) assistants and fix their salaries at a rate not to exceed the following amounts: two (2) of said assistants, Four Thousand, Five Hundred Dollars (\$4,500) per annum each; two (2) of said assistants, Four Thousand, Two Hundred Dollars (\$4,200) per annum each; one (1) of said assistants, Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) of said assistants, Three Thousand Dollars (\$3,000) per annum; and three (3) of said assistants, Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ three (3) investigators and fix their salaries at not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum each. He may employ two (2) court reporters and fix their salaries at not to exceed Two Thousand, Two Hundred and Eighty Dollars (\$2,280) per annum each. He may employ one (1) combination stenographer and accountant and fix his salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ one (1) stenographer and fix his salary at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. He may employ one (1) chief civil clerk and fix his salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ two (2) abstracters and fix their salaries as follows: one (1) of said abstracters at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum, and the other abstracter at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. All such salaries above mentioned shall be payable from the Officers Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the Officers Salary Fund.

In all counties in this State containing a population of not less than two hundred and ninety thousand (290,000) nor more than three hundred and twenty thousand (320,000) inhabitants, according to the last preceding Federal Census, the district attorney or criminal district attorney shall be authorized to employ two (2) court reporters and fix their salaries as follows: one (1) of said court reporters at a salary not to exceed Three Thousand Dollars (\$3,000) per annum, and one (1) of said court reporters at a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum.

Should a district or criminal district attorney be of the opinion that the number of assistants, stenographers, investigators, or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and consent of the Commissioners Court he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: one (1) additional assistant to receive a salary not to exceed Four Thousand, Two Hundred and Fifty Dollars (\$4,250) per annum; one (1) additional assistant or employee to receive a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) additional assistant to receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum; and two (2) additional assistants to receive a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ one (1) additional court reporter and fix his salary at a rate not to exceed Two

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Thousand, One Hundred and Sixty Dollars (\$2,160) per annum. He may employ one (1) stenographer and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one (1) civil clerk and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one (1) information clerk and fix his salary at a rate not to exceed Nine Hundred Dollars (\$900) per annum, but such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners Court of the county in which such appointments are made, these salaries being payable from the Officers Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the Officers Salary Fund. In addition to the salary herein provided for investigators for district attorneys and criminal district attorneys, each of such investigators shall be allowed a sum not to exceed Fifty Dollars (\$50) per month for repair and maintenance expense of an automobile used by said investigator in the investigation of crime, said allowances to be paid monthly by such county by warrant drawn upon said Officers Salary Fund upon the written claim of such investigator showing that said automobile was in official use, and such claim shall bear the approval of the district attorney before being paid. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #148, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

(l). Each district, county, and precinct officer receiving an annual salary as compensation shall be entitled, subject to the provisions of this Section, to issue warrants against the salary fund created for his office in payment of the services of deputies, assistants, clerks, stenographers, and investigators, for such amounts as said employees may be entitled to receive for services performed under their authorizations of employment. And such officer shall be entitled to file claims for and issue warrants in payment of all actual and necessary expenses incurred by him in the conduct of his office, such as stationery, stamps, telephone, traveling expenses, premiums on deputies' bonds, and other necessary expenses. If such expenses be incurred in connection with any particular case, such claim shall state such case. All such claims shall be subject to the audit of the county auditor; and if it appears that any item of such expense was not incurred by such officer, or such item was not a necessary expense of office, or such claim is incorrect or unlawful, such item shall be by such auditor rejected, in which case the correctness, legality, or necessity of such item may be adjudicated in any Court of competent jurisdiction. Provided, the Assessor and Collector of Taxes shall be authorized in like manner annually to incur and pay for insurance premiums in a reasonable sum for policies to carry insurance against loss of funds by fire, burglary, or theft.

At the close of each month of the tenure of his office, each officer named herein shall make as a part of the report required by Subsection (o) of this Section an itemized and sworn statement of all expense claims paid during said month. And said report shall give the name, position, and amount paid to each authorized employee of such officer. Such deputies, assistants, clerks, or other employees as well as expenses shall be paid from the Officers' Salary Fund in cases in which the officer is on a

salary basis, and from fees earned and collected by such officer in all cases in which the officer is compensated on a basis of fees earned by him.

The Commissioners Court may allow, upon the written and sworn application of the sheriff showing the necessity therefor, one or more automobiles to be used by the sheriff or his deputies in the discharge of his official duties, which, if purchased by the county, shall be bought in the manner prescribed by law for the purchase of supplies, and shall be paid for out of the Officers' Salary Fund, and said automobiles shall be and remain the property of the county. The expense of operating and maintaining said automobile shall be paid in the manner and subject to the provisions herein provided for other expense items. The Commissioners Court by an order entered of record may make provision for payment of depreciation upon automobiles owned personally by the sheriff or his deputies.

The Commissioners Court may, upon the written and sworn application of the District Attorney or Criminal District Attorney stating the necessity therefor, allow one or more automobiles to be used by him in the discharge of his official duties, which if purchased shall be bought by the county in the manner prescribed by law for the purchase of supplies and paid for out of the Officers' Salary Fund, and they shall be and remain the property of the county. The amount to be expended for the purchase of an automobile or automobiles shall not exceed the sum of One Thousand, Two Hundred Dollars (\$1,200) for the first year, and shall not exceed the sum of Five Hundred Dollars (\$500) for any year thereafter. The expense of the maintenance and operation of such automobile or automobiles as may be allowed shall be paid for by the District Attorney or the Criminal District Attorney from the Officers' Salary Fund, and the amount thereof shall be reported in detail by the District Attorney or the Criminal District Attorney on his monthly report, as is required by this Section in reporting expenses incurred by him in the conduct of his office. Such expense account for the maintenance and operation of such automobile or automobiles shall be subject to audit as hereinabove provided. [As amended Acts 1937, 45th Leg., 1st C.S., H.B. # 33, § 1.]

Effective Nov. 1, 1937. the act should take effect from and after
Section 2 of the amendatory act of 1937 its passage.
declared an emergency and provided that

Art. 3912e—1. Compensation of designated district, county, and precinct officers in counties of 300,000.

The provisions of this Section shall apply to and control in each county in the State of Texas having a population of three hundred thousand (300,000) inhabitants or more and less than three hundred and fifty-five thousand (355,000) inhabitants according to the last preceding Federal Census.

(a) The County Judge, Sheriff, District Attorney, District Clerk, County Clerk and the Assessor and Collector of Taxes of such Counties shall each receive a salary of Seventy-four Hundred Dollars (\$7400) per annum. The County Auditor of such Counties shall receive a salary of Sixty-five Hundred Dollars (\$6500) per annum, in lieu of any and all compensation now provided by law; provided that any salary or compensation now provided by law to be paid such County Auditors out of any special funds, including compensation for services rendered navigation, levee, drainage or road districts, shall be charged and collected, but shall be paid into the General Fund of such counties. The County Treasurer of such counties shall receive a salary of Thirty-nine Hundred Dollars (\$3900) per annum. The Judges of the County Courts at Law and the County Criminal Courts of such counties shall each receive a salary of

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Six Thousand Dollars (\$6,000) per annum. All of such salaries enumerated in this subsection shall be paid out of the General Fund of such counties.

(b) The County Commissioners of such counties shall each receive a salary of Fifty-five Hundred Dollars (\$5500) per annum and such salaries shall be out of the Road and Bridge Funds of such counties.

(c) All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees and/or salary of Forty-five Hundred Dollars (\$4500) each, provided however, that all fees and commissions whether current or delinquent which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office and to make up the maximum compensation provided for in this subsection. No such officers shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office. [Acts 1937, 45th Leg., H.B. # 165, § 1.]

Effective March 31, 1937.

Section 3 of this Act repeals all conflicting laws and parts of laws to the extent of such conflict only. Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of certain designated District, County and Precinct Officers in counties having a population in excess of three hundred thousand (300,000) inhabitants according to the last preceding or any future Federal Census;

providing the method and means by which said officers shall be compensated; providing for appointment by and compensation of assistants to and employes of the District Attorney or Criminal District Attorney in counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census; repealing all laws or parts of laws in conflict herewith to the extent of such conflict only; and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 165.]

Art. 3912e—2. Compensation of certain district, county, and precinct officers in counties of 355,000; appointment of assistants to district attorneys

Provisions of this Section shall apply to and control in each county in the State of Texas having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants according to the last preceding or any future Federal Census.

(a) The term "Precinct Officers" as used in this section means Justices of the Peace and Constables.

Precinct officers in such counties shall be compensated for their services on a fee basis unless the Commissioners Court shall have determined otherwise as provided by law.

The annual fees that may be retained by any such Precinct Officers shall be Four Thousand, Five Hundred Dollars (\$4,500) each.

All fees and commissions earned by such official shall be applied first to the payment of his deputies, authorized expenses of his office, and to make up the maximum provided for such officers.

All fees and commissions over and above the amount necessary to pay authorized expenses and Deputies' Salaries, and to make up the maximum compensation above provided for, shall be deemed excess fees, and all excess fees not permitted to be retained shall be paid into the General Fund of the county.

Delinquent fees may be used to defray the salaries of Deputies if current fees are insufficient for that purpose; and may be used also to make up the maximum compensation, exclusive of excess fees, allowed to such officers for the fiscal year within which such fees were earned. Delinquent fees collected in excess of the amount above provided for

shall be paid by the officer collecting the same into the General Fund of the county.

Precinct Officers, as defined in this Section, shall be compensated after an order duly enacted by the Commissioners Court, on an annual salary basis from said Officers' Salary Fund or the General Fund, as the case may be; such salaries shall be fixed by the Commissioners Court at a reasonable sum not to exceed Four Thousand, Five Hundred Dollars (\$4,500) each; provided further that in such counties in which the Commissioners Court determines to place Justices of the Peace and Constables on a salary basis, said Commissioners Court shall not be required to place said salaries in all precincts within the county at equal amounts, but said Commissioners Court shall have discretion to determine the amount of salary to be paid to each of said Justices of the Peace and to each of said Constables in the several precincts in said counties within the limitations hereinabove set out. In counties where the Commissioners Court determines to place the Justices of the Peace on a salary basis the Justice of the Peace shall receive in addition thereto all fees, commissions or payments for performing marriage ceremonies and for acting as Registrar for the Board of Vital Statistics and when acting as Ex-officio Notary Public.

(b) The County Judge, Sheriff, District Attorney or Criminal District Attorney, as the case may be, District Clerk, County Clerk, and Assessor and Collector of Taxes in such counties shall receive a salary of Seven Thousand, Four Hundred Dollars (\$7,400) per annum from the Officers' Salary Fund or General Fund, as the case may be. The compensation herein fixed for the Sheriff or Constable shall be exclusive of any reward received for the apprehension of criminal fugitives from justice and rewards received for the recovery of stolen property.

(c) The County Commissioners in such counties shall each receive a salary of Four Thousand, Eight Hundred Dollars (\$4,800) per annum, and said salaries shall be paid in equal monthly installments, three-fourths ($3/4$) out of the Road and Bridge Fund and one-fourth ($1/4$) out of the General Fund of the county.

(d) The Judge of the County Court at Law of Harris County, Texas, and the Judge of the County Court at Law No. 2 of Harris County, Texas, each shall receive a salary of Six Thousand Dollars (\$6,000) per annum to be paid out of the County Treasury by the Commissioners Court in equal monthly installments.

(e) The Commissioners Court of each such county shall determine annually the salary to be paid to the County Treasurer at a reasonable sum not to exceed Three Thousand, Nine Hundred Dollars (\$3,900) per annum. Said Treasurer shall be allowed to appoint one assistant at a reasonable salary not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum; and said Court may allow one additional assistant upon adequate proof of necessity at a reasonable salary not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. Said assistants shall be appointed by the Treasurer and shall take the usual oath of office and, in addition thereto, shall give such surety bond as may be required by the County Treasurer or by the Commissioners Court. Said assistants shall have authority to do and perform in the name of the Treasurer such acts of a clerical or ministerial character as may be required of them by the County Treasurer. The County Treasurer may designate, subject to the approval of the Commissioners Court, a named person to act for him and in his stead when he shall be absent, unavoidably detained or incapacitated. The particulars justifying such appointment shall be placed before the Commissioners Court and such court may require any proof in connection therewith desired. Upon approval

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of the court of the appointment of the person so designated, and the recording of such appointment in the minutes of the court, thereupon such person may act for such Treasurer during such period of absence, detention or incapacity; provided, however, that such appointment shall not become effective until such named person shall have given a surety bond in favor of the county and the County Treasurer as their interests may appear and in such amounts as the Commissioners Court may require.

(f) The Criminal District Attorney or District Attorney in such counties shall be authorized to appoint nine (9) assistants and fix their salaries at a rate not to exceed the following amounts: two (2) of said assistants, Four Thousand, Five Hundred Dollars (\$4,500) per annum each; two (2) of said assistants, Four Thousand, Two Hundred Dollars (\$4,200) per annum each; one (1) of said assistants, Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) of said assistants, Three Thousand Dollars (\$3,000) per annum; and three (3) of said assistants, Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ three (3) investigators and fix their salaries at not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum each. He may employ two (2) court reporters and fix their salaries at not to exceed Two Thousand, Two Hundred Eighty Dollars (\$2,280) per annum each. He may employ one (1) stenographer and fix his salary at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. He may employ one (1) chief civil clerk and fix his salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ three (3) abstracters and fix their salaries as follows: Two (2) of said abstracters at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum each, and the other abstracter at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. All such salaries above mentioned shall be payable from the Officers' Salary Fund or General Fund, as the case may be.

Should such Criminal District Attorney or District Attorney be of the opinion that the number of assistants, stenographers, investigators, or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and consent of the Commissioners Court he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: One (1) additional assistant to receive a salary not to exceed Four Thousand, Two Hundred Fifty Dollars (\$4,250) per annum; one (1) additional assistant to receive a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum; one (1) additional assistant to receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum; and two (2) additional assistants to receive a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ one (1) additional court reporter and fix his salary at a rate not to exceed Two Thousand, One Hundred Sixty Dollars (\$2,160) per annum. He may employ one (1) additional stenographer and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one (1) additional stenographer and fix his salary at a rate not to exceed Eighteen Hundred Dollars (\$1,800) per annum. He may employ one (1) civil clerk and fix his salary at a rate not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one information clerk and fix his salary at a rate not to exceed Nine Hundred Dollars (\$900) per annum, but such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the

Commissioners Court of the county in which such appointments are made, these salaries being payable from the Officers' Salary Fund or General Fund, as the case may be. In addition to the salary herein provided for investigators for Criminal District Attorneys or District Attorneys, each of such investigators shall be allowed a sum not to exceed Fifty Dollars (\$50) per month for repair and maintenance expense of an automobile used by said investigator in the investigation of crime, said allowances to be paid monthly by such county by warrant drawn upon said Officers' Salary Fund or General Fund, as the case may be, upon the written claim of such investigator showing that said automobile was in official use, and such claim shall bear the approval of the District Attorney before being paid.

(g) The County Auditor in such counties shall receive for his services to the county an annual salary of Six Thousand, Five Hundred Dollars (\$6,500) payable from county funds. This shall not be construed nor shall it operate to repeal Article 1672, Revised Civil Statutes of Texas, nor Article 8245, Revised Civil Statutes of Texas, as amended by Acts 1935, 44th Legislature, page 316, Chapter 119, Section 1. [Acts 1937, 45th Leg., H.B. # 165, § 2.]

Effective March 31, 1937.

Section 3 of this Act repeals all conflicting laws and parts of laws to the extent of

such conflict only. Emergency section. See note under art. 3912e—1, ante.

See, also, art. 3912e, § 19, as to salaries in counties in excess of 355,000 population.

Art. 3912e—3. Salary of county judge in counties of 12,227 to 12,230

Hereafter, the County Judge in counties having a population of not less than twelve thousand, two hundred and twenty-seven (12,227) and not more than twelve thousand, two hundred and thirty (12,230) according to the last preceding Federal Census of 1930, shall receive an annual salary of Eighteen Hundred Dollars (\$1800) per year, payable in twelve (12) equal monthly installments, and said payments shall be paid out of the funds as now provided by the general laws governing the payment of County Judges in Texas. [Acts 1937, 45th Leg., H.B. # 998, § 1.]

Effective April 23, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act fixing the salaries of certain county officials in certain counties with a

population of not less than twelve thousand, two hundred and twenty-seven (12,227) and not more than twelve thousand, two hundred and thirty (12,230) according to the last preceding Federal Census of 1930, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #998.]

CHAPTER TWO—ENUMERATION

Art. 3936b. Fees of justices of the peace and constables in counties of 11,980 to 12,100 [New].

Art. 3943b. Compensation of treasurer as custodian of road district funds [New].

Art. 3933. Sheriffs and constables

Sheriffs and Constables shall receive the following fees:

Serving each original citation in a civil suit.....	\$1.00
Summoning each witness.....	\$.50
Levying and returning each writ of attachment or sequestration..	\$2.00
Copy of attachment writ and return for recording.....	\$1.00
Levying each execution.....	\$1.00
Return of execution.....	\$1.00
Serving each writ of garnishment or other process not otherwise provided for.....	\$1.00

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Serving each writ of injunction.....	\$1.50
Taking and approving each bond, and returning same to the proper Court when necessary.....	\$1.00
Endorsing the forfeiture of any bond required to be endorsed by him	\$.50
Executing and returning each writ of possession or restitution.....	\$3.00
Posting the advertisements for sale under the execution or any order of sale.....	\$1.00
Posting any other notices required by law and not otherwise provided for	\$1.00
Executing a deed to each purchaser of real estate under execution or order of sale.....	\$2.00
Executing a bill of sale to each purchaser of personal property under an execution or order of sale, when demanded by purchaser..	\$2.00
For each case tried in the District or County Court, a jury fee shall be taxed for the sheriff of.....	\$.50
For services in designating a homestead.....	\$2.00

For traveling in the service of any civil process, Sheriffs and Constables shall receive seven and one-half (7½) cents for each mile going and coming; if two or more persons are mentioned in the writ, he shall charge for the distance actually and necessarily traveled in the service of same.

Collecting money on an execution or an order of sale, when the same is made by a sale, for the first One Hundred Dollars (\$100) or less, four (4) per cent; for the second One Hundred Dollars (\$100), three (3) per cent; for all sums over Two Hundred Dollars (\$200) and not exceeding One Thousand Dollars (\$1000), two (2) per cent; for all sums over One Thousand Dollars (\$1000) and not exceeding Five Thousand Dollars (\$5000), one (1) per cent; for all sums over Five Thousand Dollars (\$5000), one-half of one per cent.

When the money is collected by the Sheriff or Constable without a sale, one-half of the above rates shall be allowed him.

For every day the Sheriff or his deputy shall attend the District or County Court, he shall receive Four Dollars (\$4) a day to be paid by the county for each day that the Sheriff by himself or a deputy shall attend said Court. [As amended Acts 1937, 45th Leg., H.B. # 749, § 1.]

Amendment of 1937 became law without Governor's signature April 26, 1937.	repeals article 3936 and section 3 declares an emergency making the act effective on and after its passage.
Section 2 of the amendatory acts of 1937	

Art. 3936. [Repealed by Acts 1937, 45th Leg., H.B. #749, § 2]

Acts 1937, 45th Leg., H.B. #749 became law without Governor's signature April 26, 1937.

Art. 3936b. Fees of justices of the peace and constables in counties of 11,980 to 12,100

In Counties containing not less than eleven thousand, nine hundred and eighty (11,980) inhabitants, and not more than twelve thousand, one hundred (12,100) inhabitants, according to the last preceding Federal Census, the Justices of the Peace and Constables in such Counties may retain annual fees to the amount of One Thousand, Five Hundred (\$1,500.00) Dollars; provided that if the current fees of such Justices of the Peace and Constables collected in any year be more than the amount needed to pay the amounts above specified, the same shall be deemed excess fees and shall be disposed of as follows: Said Justices of the Peace and Constables shall retain one-third (1/3) of such excess fees

until such one-third ($\frac{1}{3}$), together with the amount hereinabove specified, amounts to the sum of One Thousand, Eight Hundred (\$1,800.00) Dollars. [Acts 1937, 45th Leg., H.B. # 747, § 1.]

Effective April 1, 1937.

Section 2 of the Acts of 1937 declared an emergency making the act effective on and after its passage.

Title of Act:

An Act fixing the amount of maximum fees that may be retained by Justices of the Peace and Constables in Counties con-

taining not less than eleven thousand, nine hundred and eighty (11,980) inhabitants, and not more than twelve thousand, one hundred (12,100) inhabitants, according to the last preceding Federal Census, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #747.]

Art. 3943. [3875] [2469] [2405] Treasurer; commissions limited

The commissions allowed to any County Treasurer shall not exceed Two Thousand Dollars (\$2,000) annually; provided, that in all counties in which the assessed value of the property of such counties shall be One Hundred Million Dollars (\$100,000,000) or more as shown by the preceding assessment roll, the Treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred Dollars (\$2,700) annually; provided that in all counties having a population of not less than seventy-five thousand (75,000) and not more than eighty thousand (80,000) according to the preceding United States Census, in which counties, road, or road and bridge bonds in the amount of Six Million Dollars (\$6,000,000) or more and flood protection bonds in the amount of One Million Dollars (\$1,000,000) or more have been voted by the people, the Treasurers thereof shall receive as their commissions a sum not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) annually; and shall be allowed an assistant at a salary not to exceed One Thousand, Two Hundred Dollars (\$1,200) annually; provided that in all counties having a population of one hundred and fifty thousand (150,000) or more and less than two hundred and ten thousand (210,000) according to the last United States Census, the Treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred Dollars (\$2,700) annually, and shall be allowed an assistant at a salary not to exceed One Thousand Dollars (\$1,000) per annum; provided that in all counties containing a population of not less than forty-two thousand, one hundred (42,100) nor more than forty-two thousand, two hundred and fifty (42,250), according to the last preceding Federal Census and having a valuation in excess of Twenty Million Dollars (\$20,000,000), the commissions allowed to any County Treasurer shall be Three Thousand, Six Hundred Dollars (\$3,600) per annum, and such compensation shall be fixed by the Commissioners Court of said County. [As amended Acts 1927, 40th Leg., p. 341, ch. 230; Acts 1931, 42nd Leg., p. 833, ch. 346, § 1; Acts 1937, 45th Leg., H.B. # 1078, § 1.]

Amendment of 1937, effective May 1, 1937.

Section 2 of the amendatory acts of 1937 declared an emergency making the act effective on and after its passage.

Art. 3943b. Compensation of treasurer as custodian of road district funds

Section 1. In all counties in the State of Texas having a population of not less than one hundred and twenty-five thousand (125,000) nor more than one hundred and seventy-five thousand (175,000) inhabitants, according to the last Federal Census, and containing two (2) cities of more than forty thousand (40,000) inhabitants, according to the last Federal Census, and in which said counties there exists or is created any Road District or Road Districts under authority, Article 3, Section 52 of

the Constitution of the State of Texas and/or Acts of the Thirty-ninth Legislature, First Called Session, Chapter 16, Page 23, the County Treasurer in such counties shall receive as salary for acting as custodian of the funds of such Road District or Road Districts a sum not to exceed Six Hundred Dollars (\$600) per annum to be fixed and determined by the Commissioners Court of such county; such salary shall be in addition to all other salary and compensation received and allowed to the County Treasurer by law, and shall be paid out of any available fund of said Road District or Road Districts in equal monthly installments. [Acts 1937, 45th Leg., H.B. # 716.]

Effective April 6, 1937.

Section 2 of this Act declared an emergency making the Act effective on and after its passage.

Title of Act:

An Act for the purpose of authorizing County Treasurers in counties having a population of not less than one hundred and twenty-five thousand (125,000) nor more than one hundred and seventy-five thousand (175,000) inhabitants, according to the last Federal Census and containing two (2) cities of more than forty thousand (40,000) inhabitants according to the

last Federal Census, to be paid in addition to all other compensation, a salary of not to exceed Six Hundred Dollars (\$600) per year, to be fixed and determined by the Commissioners Court of such county for acting as custodian of the funds of Road District or Road Districts in such counties created under authority of Article 3, Section 52 of the Constitution of the State of Texas and/or Acts, Thirty-ninth Legislature, First Called Session, Chapter 16, Page 23, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #716.]

TITLE 69—GUARDIAN AND WARD

CHAPTER ONE—GENERAL PROVISIONS

Art.

4112a. Payment to county clerk of liquidated and uncontested claims under \$250 of minors and incompetents without guardians [New].

Art. 4112a. Payment to county clerk of liquidated and uncontested claims under \$250 of minors and incompetents without guardians

Section 1. Whenever any minor, lunatic, idiot, or non compos mentis, who has no legal guardian shall be entitled to any sum or sums of money not exceeding Two Hundred and Fifty Dollars (\$250) from any person, firm, corporation, administrator, executor, guardian, or trustee, arising out of any liquidated and uncontested claim, such person, firm, corporation, administrator, executor, guardian, or trustee holding such sum may pay same over to the County Clerk of the county in which said minor, lunatic, idiot, or non compos mentis resides, for the account of said minor, lunatic, idiot, or non compos mentis, and the receipt of the County Clerk therefor shall be forever binding on said minor, lunatic, idiot, or non compos mentis, as of the date and to the extent of the payment so made.

Deposit of money in trust

Sec. 2. Whenever any such sum shall be received by any County Clerk, he shall forthwith deposit said sum in his Trust Account in the name and for the account of said minor, lunatic, idiot, or non compos mentis.

Right of parent to withdraw deposit; bond

Sec. 3. The father or mother of such minor, lunatic, idiot, or non compos mentis, if either be living within the State, or if both the father and mother be dead or living without the State, then such person having custody of the person of said minor, lunatic, idiot, or non compos mentis,

may, upon application approved by the County Judge of the county in which said minor, lunatic, idiot, or non compos mentis resides, withdraw and take charge of said money for the benefit of said minor, lunatic, idiot, or non compos mentis, upon executing and filing with the County Clerk a proper bond, approved by the County Judge in a sum at least double the amount of said fund, payable to the County Judge, conditioned that he will use said money for the benefit of said minor, lunatic, idiot, or non compos mentis under the direction of the County Court or the Judge thereof, and that he will account for said money and the increase thereof, if any, to the minor when he becomes of age or to the lunatic, idiot, or non compos mentis when he is restored to sanity or to the legally qualified guardian of such person, when called upon to do so.

Commission for receiving or handling money not allowed

Sec. 4. Such person who takes such money shall receive no fees or commissions for caring for or handling the same.

Sworn report of person expending money; filing and approval, effect of

Sec. 4-a. When the person to whom said money has been paid by the County Clerk for the benefit of said minor, lunatic, idiot, or non compos mentis, shall have expended said money for the benefit of said minor, lunatic, idiot, or non compos mentis as directed by the County Court or Judge thereof or shall have otherwise complied with the provisions of his aforesaid bond by accounting for said money and the increase thereof, if any, he shall file with the County Clerk from whom said money was received, his sworn report thereof; which report when so filed and approved by the County Court or Judge thereof shall operate as a discharge of said person and his sureties from any and all further liability under and by reason of the aforesaid bond. The County Court or Judge thereof shall satisfy himself that said report speaks the truth, and to that end may require said person to submit proof thereon.

Provisions cumulative

Sec. 5. This Act and the provisions thereof shall be cumulative of all other laws upon the same subject, and is not intended to repeal any other law upon the subject of the rights of minors, lunatics, idiots, or non compos mentis, or money belonging to such persons. [Acts 1937, 45th Leg., H.B. # 127.]

Became law without Governor's signature May 5, 1937.

Section 6 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize payments of funds arising out of liquidated and uncontested claims in favor of minors, lunatics, idiots, and non compos mentis; and to provide for

the disposition of such funds so paid; and to define the duties of the person holding such funds; providing that such person shall file a sworn report with the County Clerk for approval by the County Court before such person and the sureties on his bond shall be discharged from liability; providing that this Act shall be cumulative of all other laws on the same subject, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #127.]

CHAPTER SEVEN—FISCAL MANAGEMENT

Art. 4180. [4140] [2639] [2558] Investments

If, at any time, the Guardian of the estate shall have on hand money belonging to the ward or wards beyond that which may be necessary for the education and maintenance of such ward or wards, he shall invest such money in bonds of the United States in tax-supported bonds of the State of Texas, in tax-supported bonds of any county, district, political

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subdivision, incorporated city or town in Texas, provided, that the bonds of counties, districts, subdivisions, cities and towns may be purchased subject only to the following restrictions: the net funded debt of said issuing unit shall not exceed ten (10) per cent of the assessed value of taxable property therein; "net funding debt" meaning the total funded debt less sinking funds on hand and further, in the case of cities, less that part of the debt incurred for acquisition or improvement of revenue producing utilities, the revenues of which are not pledged to support other obligations; provided, however, the above restrictions shall not apply to bonds issued for road purposes in this State under authority of Article III, Section 52 of the Constitution of Texas, which bonds are supported by a tax unlimited as to rate or amount, or such collateral bonds of companies incorporated under the laws of the State of Texas, having a paid-in capital of One Million Dollars (\$1,000,000) or more, when such bonds are a direct obligation of the company issuing them, and are specifically secured by first mortgage real estate notes and other securities pledged with a Trustee, or loan the same for the highest rate of interest that can be obtained therefor (secured as provided in Article 4181, Revised Civil Statutes of Texas, 1925), or purchase for said ward or wards a contract for life insurance and/or annuity in a legal reserve life insurance company, operating under and complying with the laws of the State of Texas, that may be approved by the Court having jurisdiction of the minor's estate. If a contract for life insurance and/or annuity has been issued on the life of the ward or wards (or for the benefit of the ward or wards in event of annuity) prior to date of guardianship, and it is made to appear that such contracts were issued by a company or companies operating under the legal reserve system, it shall be lawful to continue such contracts in full force and effect; all future premiums shall be paid out of the surplus funds of said ward or wards; provided, that said Guardian shall first apply to the Probate Court having jurisdiction and obtain an order therefrom to continue said contracts according to original terms or modify the same to fit any new development affecting the welfare of said ward or wards; provided, that before any application is granted by the Probate Court, the Guardian shall file a report in said Court showing the financial condition of the ward's or wards' estate at the time said application is made, said report to be filed in detail; provided further, that before the Judge of the Probate Court shall approve the application, there shall be filed with said Probate Court a financial statement approved by the Chairman of the Board of Insurance Commissioners showing the solvency of said company.

The signatures of the Guardian and the Probate Judge having jurisdiction of the estate of the minor or minors shall appear on all applications, and any amendments thereto, made to any insurance company under the provisions of this Article.

It is expressly provided, that the Guardian shall in no event be authorized to contract for new life insurance on the life of such ward or wards wherein such Guardian is made the beneficiary of said policy, except in such cases where the Guardian is a natural parent of the ward or wards. Each and every right, benefit, and interest accruing under any contract for insurance or annuity coming under the provisions of this Title shall become the exclusive property of said ward or wards when disability has been terminated.

All contracts for new life insurance issued under the provisions of this Act shall be limited to some form of single premium endowment insurance or single premium annuity, and it is further provided, that all such contracts shall show the cash surrender value available at the

age of twenty-one (21), in excess of all premium deposits made prior thereto and according to the contract; provided, that at no time shall more than twenty-five (25) per cent of the estate be invested in insurance premiums.

By the term "Life Insurance Company" is meant any stock or mutual legal reserve company that maintains the full legal reserve required under the laws of the State of Texas, and approved by the Commissioner of Insurance. [As amended Acts 1929, 41st Leg., p. 684, ch. 305; Acts 1937, 45th Leg., S.B. #84, § 1; Acts 1937, 45th Leg., 2nd C.S., H.B. #124, § 1.]

Effective Nov. 1, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Sec. 2. [Repealed Acts 1937, 45th Leg., S.B. # 84, § 2.]

Amendment of 1937 effective May 15, 1937. the Act should take effect from and after its passage.

Section 3 of the amendatory Act of 1937 declared an emergency and provided that See, also, art. 842a.

CHAPTER THIRTEEN—NON-RESIDENT GUARDIANS AND WARDS

Art. 4285. [4256] [2753] [2671] Letters of guardianship

Where a guardian and his ward are nonresidents, such guardian may file in the County Court of any county where all or part of said ward's estate is located, a full and complete transcript from the records of a Court of competent jurisdiction where he and his ward reside, showing that he has been appointed and has qualified as guardian of the estate of such ward; which said transcript shall be certified by the Clerk of the Court in which the proceedings were had, under the seal of such Court, if there be one, together with a certificate from the Judge, Chief Justice, or presiding Magistrate of such Court, as the case may be, that the attestation of such transcript is in due form; and upon the filing of such transcript the same may be recorded, and the guardian shall be entitled to receive letters of guardianship of the estate of such minor, person of unsound mind, or habitual drunkard situated in this State, upon filing a bond with sureties as provided in Article 4141. [As amended Acts 1937, 45th Leg., 1st C.S., H.B. # 38, § 1.]

Effective July 7, 1937.

Section 4 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 4286. [4257] [2754] [2672] May remove property

Upon the recovery of the property of the ward, if it be personal property, such guardian may remove the same out of the State, unless such removal would conflict with the tenure of such property, or the terms and limitations under which it is held; and if it be real property, he may obtain an order from the Court in this State having jurisdiction of such estate for the sale of it and remove the proceeds; or he may obtain an order under the conditions and upon a proper application, as required of resident guardians, to rent or lease such real estate for agricultural, business, or residence purposes, or he may obtain an order to make oil and gas and other mineral leases upon such real property and may if the order of the Court so directs remove the proceeds. Such sale, leases, oil and gas and other mineral leases shall be made, returned, and acted upon by the Court as other sales of real estate, leases, oil and gas and other mineral leases by a resident guardian made in accordance with this title. [As amended Acts 1937, 45th Leg., 1st C.S., H.B. # 38, § 2.]

Effective July 6, 1937.

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Art. 4289. [Repealed by Acts 1937, 45th Leg., 1st C.S., H.B. #38, § 3.]
Effective July 6, 1937.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER THREE—STATE TREASURER

Art. 4379a. Obligations of municipalities and subdivisions of state payable at State Treasurer's office; State Treasurer ex-officio treasurer and fiscal agent [New].

Art. 4379a. Obligations of municipalities and subdivisions of state payable at State Treasurer's office; State Treasurer ex-officio treasurer and fiscal agent

Section 1. Any bond, warrant or other evidence of indebtedness issued by any municipality or political subdivision of this State, including Counties, Cities, Road, School, Water Improvement, Irrigation, Drainage and Navigation Districts may by their terms, together with interest thereon, be made payable at the office of the State Treasurer of the State of Texas, in the City of Austin, and the State Treasurer is hereby designated as Ex-officio Treasurer and fiscal agent of said municipality or political subdivision for the purpose of receiving deposit of funds for the payment of such bonds and interest thereon, making payment of said obligation as provided therein and for all purposes herein designated and those necessary or incidental thereto.

Deposit and disposition of funds by State Treasurer; warrants of Comptroller of Public Accounts

Sec. 2. The State Treasurer shall deposit all funds coming into his hands as Ex-officio Treasurer, and on account of his designation as fiscal agent of such municipality or political subdivision, shall keep a separate account for each municipality or political subdivision of any moneys received for the credit of such municipality or political subdivision under the provisions of this Act. All money deposited to the credit of such municipality or political subdivision with the State Treasurer up to August 31, 1939 are hereby appropriated to said respective municipalities and political subdivisions and shall be received, payable, used and applied by the State Treasurer as fiscal agent and Ex-officio Treasurer of said respective municipality and political subdivision, to the payment of interest and principal due on obligations maturing on or prior to said time as may be directed in writing by said respective municipality or political subdivision, and each year thereafter all moneys deposited with the State Treasurer for such purposes and all moneys remaining therein from the previous year shall be received and held by him as fiscal agent and Ex-officio Treasurer of said municipality or political subdivision and shall be subject to appropriation for the payment of interest and principal from time to time upon any bonds made payable at the office of the State Treasurer in such manner as may be directed by such municipality or political subdivision. As payment of interest and principal becomes due upon any obligation, the Treasurer of said municipality or political subdivision shall remit to the State Treasurer, not later than fifteen (15) days prior to date of maturity all sums due or to become due on any maturity. Upon receipt of such funds by the State Treasurer, he shall request the State Comptroller of Public Accounts to issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin. Such warrants shall state

on their face that the proceeds of the same are to be applied by the State Treasurer to the payment of certain specified bonds or interest coupons therein described, giving the name of the municipality or political subdivision of which they were issued, numbers, amounts and dates of the maturities of the obligations and interest to be paid with instructions to the State Treasurer to return to the Treasurer of such municipality or political subdivision such obligations and interest coupons when the same are paid and the Treasurer of said municipality or political subdivision, upon receipt of same, shall cause to be duly entered a record of such payment and cancellation.

Commissions for receiving and disbursing funds

Sec. 3. The State Treasurer shall collect for the use of the State, from said municipality or political subdivision for receiving and disbursing such funds, a commission of one-eighth of one per cent on interest, and one twentieth of one per cent on principal. The Treasurer of said municipality or political subdivision shall remit to the State Treasurer as Ex-officio Treasurer of said municipality or political subdivision, the exchange or commission as herein provided at the time of such remittance for the payment of any maturing obligation or interest thereon. Upon receipt of such exchange or commission paid by the municipalities or political subdivisions, the State Treasurer shall credit the same to commissions and exchanges earned, and all commissions and exchanges earned or so much as necessary are hereby appropriated to the State Treasurer to be used by him in the administration of the provisions of this Act. Any balance remaining at the end of the fiscal year shall be available for use in the next fiscal year.

Purpose and construction of act

Sec. 4. It is the general intent of this Act to provide an inexpensive and feasible means for the payment of bonds and interest coupons issued by municipalities and political subdivisions in this State at the office of the State Treasurer, and this Act shall be broadly construed to carry out such intent and purpose, and any official or officials, or any municipality or political division and the State Treasurer concerned in any way with the administration of the Act, is authorized and directed to perform any and all acts and duties necessary, requisite or appropriate to facilitate and expedite the operation of the Act to the end that such bonds and interest thereon may be promptly paid and the payment thereof clearly evidenced and accounted for.

Bonds and coupons cancelled and returned; balance returned; statement of account

Sec. 5. The State Treasurer shall return to the municipality or political subdivision depositing funds for the payment of interest coupons or the retirement of bonds, all such coupons and bonds as have matured or been retired by purchase, after canceling the same, together with a statement of the account of such municipality or subdivision, showing the amounts received and placed to its credit, the service charges, and the amount of coupons or bonds retired. The State Treasurer shall remit to said municipality or subdivision of the State any balance remaining in his hands more than two years, for which bonds or coupons have not been presented for payment, and thereafter the municipality or subdivision shall pay such coupons or bonds when presented. Any municipality or subdivision shall have the right at any

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reasonable time to a statement of its account with the State Treasurer. [Acts 1937, 45th Leg., S.B. # 349.]

Effective June 9, 1937.

Section 6 of the act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act providing and authorizing that any bonds, interest thereon, or similar obligations, issued by any municipality or political division of the State may be made payable at the office of the State Treasurer, designating and constituting the State Treasurer, Ex-officio Treasurer and fiscal

agent of such municipalities and political divisions for such purposes, providing for the deposit and payment of funds by municipalities and political divisions with the State Treasurer for such purposes; providing that the State Treasurer shall cancel and return coupons and bonds that have matured or have been retired by purchase and shall remit balances remaining on hand for two years for which bonds have not been presented for payment; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #349.]

CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY

[Art. 4413(5). Directors and assistant directors; salary]

The Commission shall appoint a Public Safety Director hereinafter designated as the 'Director,' who shall be a citizen of this State and who shall hold his position until removed by the Commission. The Commission shall also appoint an Assistant Director who shall perform such duties as may be designated by the Director. The Director and Assistant Director shall be selected on the basis of training, experience, and qualifications for said positions, and shall have at least five (5) years experience, preferably police or public administration. The Director and Assistant Director shall draw annual salaries as fixed by the Legislature. The Director shall be directly responsible to the Commission for the conduct of all the affairs of the Department. [Acts 1935, 44th Leg., p. 444, ch. 181, § 5, as amended Acts 1937, 45th Leg., H.B. # 774, § 1.]

Amendment of 1937, effective May 20, 1937.

Section 8 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

[Art. 4413(8)]. Appointment of division and bureau chiefs

It shall be the duty of the Director with the advice and consent of the Commission to appoint the Chiefs of the several Bureaus provided for in this Act. [Acts 1935, 44th Leg., p. 444, ch. 181, § 8, as amended Acts 1937, 45th Leg., H.B. # 774, § 2.]

Amendment of 1937, effective May 20, 1937.

Emergency section. See note under section 4413(5), ante.

[Art. 4413(11)]. The Texas Rangers

(2) The Texas Rangers shall consist of six (6) captains, one headquarters sergeant, and such number of privates as may be authorized by the Legislature, except in cases of emergency when the Commission, with the consent of the Governor, shall have authority to increase the force to meet extraordinary conditions. [Acts 1935, 44th Leg., p. 444, ch. 181, § 11, as amended Acts 1937, 45th Leg., H.B. # 774, § 3.]

Amendment of 1937, effective May 20, 1937.

Emergency section. See note under section 4413(5), ante.

[Art. 4413(12)]. The Texas Highway Patrol

(2) The Texas Highway Patrol Division of the Department of Public Safety shall consist of Chief Patrol Officer, who shall be the executive officer of the Patrol, and not exceeding fifteen (15) captains, and

not exceeding twenty (20) sergeants and not exceeding three hundred (300) privates, and such clerical help as may be determined by the Legislature in its biennium appropriation bill. Provided that if an applicant be otherwise qualified as a private thereunder, his literary attainment shall not preclude his appointment as such private. [As amended Acts 1937, 45th Leg., H.B. # 202, § 1.]

Amendment of 1937, effective April 2, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Section 12, subsection 2, was also amended by Acts 1937, 45th Leg., H.B. #774, § 4. See subsection 2, post.

(2) The Texas Highway Patrol Division shall consist of the Chief Patrol Officer who shall be the executive officer of the Patrol and such number of captains, sergeants, and privates as may be authorized by the Legislature, and such administrative and clerical help as may be determined by the Commission. [As amended Acts 1937, 45th Leg., H.B. # 774, § 4.]

Amendment of 1937, effective May 20, 1937.

Emergency section. See note under section 4413(5), ante.

Section 12, subsection 2, was also amended by Acts 1937, 45th Leg., H.B. #202, § 1. See subsection 2, ante.

[Art. 4413(15)]. The Bureau of Communications

(1) It shall be the duty of the Director with the advice and consent of the Commission to name the Chief of the Bureau of Communications. [As amended Acts 1937, 45th Leg., H.B. # 774, § 5.]

Amendment of 1937, effective May 20, 1937.

Emergency section. See note under section 4413(5), ante.

[Art. 4413(16)]. The Bureau of Intelligence

(1) It shall be the duty of the Director with the advice and consent of the Commission to name the Chief of the Bureau of Intelligence. [As amended Acts 1937, 45th Leg., H.B. # 774, § 6.]

Amendment of 1937, effective May 20, 1937.

Emergency section. See note under section 4413(5), ante.

[Art. 4413(17)]. The Bureau of Education

(1) It shall be the duty of the Director with the advice and consent of the Commission to name the Chief of the Bureau of Education. The Chief of said Bureau shall organize schools for the members of the Department and other peace officers, and shall give instruction in such schools, and he shall have had substantial experience in law enforcement work and in the instruction of law enforcement officers. [As amended Acts 1937, 45th Leg., H.B. # 774, § 7.]

Amendment of 1937, effective May 20, 1937.

Emergency section. See note under section 4413(5), ante.

TITLE 71—HEALTH—PUBLIC

CHAPTER THREE—FOOD AND DRUGS

Art. 4473. Preservatives added; regulations by State Board of Health

No person shall manufacture, sell, offer or expose for sale or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoate, sulphurous acids or sulphites, salicylic acid or salicylates, abradol, beta naphthol, fluorine compounds,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

dulcin, glucin, cocaine, sulphuric acid or other mineral acid except diluted phosphoric acid, any preparation of lead or copper or other ingredients injurious to health; provided, however, that organic salicylates used for flavoring, such as methyl salicylate, oil of betula lenta or oil of gaultheria procumbens shall not be prohibited. Nothing herein shall be construed as prohibiting the sale of foods or drinks preserved with one-tenth of one percent of benzoate of soda, or the equivalent benzoic acid, when a statement of such fact is plainly indicated on the label.

The State Board of Health is hereby authorized, for the protection of the public health, to promulgate regulations limiting the quantity of oxides of sulphur and other bleaching, clarifying or refining agents, that may be used for bleaching, clarifying or refining fruits, vegetables and other foods. [As amended Acts 1937, 45th Leg., S.B. # 229, § 1.]

Amendment of 1937, effective May 5, 1937 declared an emergency making the 1937. act effective on and after its passage.

Section 2 of the amendatory act of

CHAPTER FOUR—SANITARY CODE

Art. 4477. Sanitary code

Rule 47a. Contents of Birth Certificate. That the certificate of birth shall contain the following items, which are hereby declared necessary for the legal, social, and sanitary purposes subserved by registration records:

(1) Place of birth, including State, county, precinct, town or city. If in a city, the ward, street, and house number; if in a hospital or other institution, the name of the same to be given, instead of the street and house number.

(2) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "died unnamed." If the living child has not yet been named at the date of filing certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report, as hereinafter provided.

(3) Sex of child.

(4) Whether a twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural births.

(5) For plural birth, number of each child in order of birth.

(6) Date of birth, including the year, month, and day.

(7) Full name of father.

(8) Residence of father.

(9) Color or race of father.

(10) Age of father at last birthday, in years.

(11) Birthplace of father; at least State or foreign country, if known.

(12) Occupation of father. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business, or establishment in which employed (or employer).

(13) Maiden name of mother.

(14) Residence of mother.

(15) Color or race of mother.

(16) Age of mother at last birthday, in years.

(17) Birthplace of mother; at least State or foreign country, if known.

(18) Occupation of mother. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, pro-

fession, or particular kind of work; (b) general nature of industry, business, or establishment in which employed (or employer).

(19) Number of children born to this mother, including present birth.

(20) Number of children of this mother living.

(21) The certification of attending physician or midwife as to attendance at birth, including statement of year, month, day (as given in item 6), and hour of birth, and whether the child was born alive or stillborn. This certification shall be signed by the attending physician or midwife with date of signature and address; if there is no physician or midwife in attendance, then by the father or mother of the child, householder owner of the premises, or manager or superintendent of public or private institution where the birth occurred, or other competent person, whose duty it shall be to notify the local registrar of such birth, as required by Section 13 of this Act.

(22) Exact date of filing in office of local registrar, attested by his official signature, and registered number of birth, as hereinafter provided.

(23) Whether prophylactic precautions were taken at time of birth to prevent ophthalmia neonatorum.

(24) Provided further, upon entry of final order of adoption the Judge or Clerk of Court shall notify the Registrar of Vital Statistics in the State Department of Health of action taken, giving the names and addresses of the natural parents if known or of the child's next of kin, the date of birth the name of such child before and after adoption, and the name and addresses of foster parents. Said Registrar of Vital Statistics shall likewise be notified of any subsequent revocation of such order of adoption or any annulment of adoption. Copies of all reports of adoptions and reports of revocations of order of adoption and of annulments shall within thirty (30) days after such order be mailed to the Registrar of Vital Statistics of the State Department of Health.

Upon receipt of copy of any final order of adoption the State Registrar of Vital Statistics shall cause to be made a record of the birth in the new name or names of the adopting parents or parent. He shall then cause to be sealed and filed the original certificate of birth, if any, with the adoption decree of the Court and such sealed package may be opened only upon order of a Court of record. Upon receipt of copy of annulment of adoption said Registrar of Vital Statistics shall restore the original name of the child and the names of his natural parents or parent to the record of birth of such child. Provided further, that adoptions, made under existing law prior to the passage of this Act, may be registered with the Bureau of Vital Statistics upon sworn application of either adoptive parent or guardian of the adopted child, show the names and addresses of the natural parents if known or of the child's next kin, the date of birth, and the name of such child before and after adoption, the names and addresses of foster parents, together with proof of adoption, either by certified copy of the record of the affidavit of adoption, or by the Court order of adoption. [Acts 1927, 40th Leg., 1st C.S., p. 116, ch. 41, as amended Acts 1937, 45th Leg., H.B. # 376, § 1.]

Effective June 9, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that

the Act should take effect from and after its passage.

CHAPTER FIVE—COUNTY HOSPITALS

Art.

4493a. Validation of county hospital bond elections in counties containing large city [New].

Art.

4494b. Lease of county hospitals in counties of 30,900 to 31,000 population [New].

Art. 4493a. Validation of county hospital bond elections in counties containing large city

Section 1. In each instance where a county containing a city of not less than one hundred and fifty thousand (150,000) population, according to the last preceding Federal Census, has held an election resulting favorably to the issuance of bonds for the purpose including any one or more of the following: constructing, building, equipping, improving, extending, or enlarging a county hospital or sanitarium, or for the purpose including any one or more of the following: constructing, building, equipping, improving, extending, or enlarging a city-county hospital or sanitarium, the act of the Commissioners Court in calling and noticing said election, the election, the act of the Commissioners Court in canvassing the returns of such election and declaring the results thereof, each and all are hereby expressly validated; all such bonds heretofore executed, approved by the Attorney General, registered by the Comptroller, sold and delivered, are hereby in all things validated; and all such bonds so voted but not heretofore sold, when they shall have been executed, approved by the Attorney General, and registered by the Comptroller, shall constitute valid and binding obligations of such county.

Sec. 2. Provided however, that this Act shall not affect any litigation pending at the time this Act becomes effective, in which the validity of any such election or bonds is being questioned. [Acts 1937, 45th Leg., 2nd C.S., H.B. #95.]

Effective Oct. 19, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating county elections heretofore held for the issuance of bonds for hospital purposes, applicable only to such counties as contain a city having a population of not less than one hundred and

fifty thousand (150,000), according to the last preceding Federal Census; validating the actions of county officials and State officials in executing, approving, registering, selling, and delivering said bonds; providing that this Act shall not affect litigation pending at the time the Act becomes effective; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H. B. # 95.]

Art. 4494b. Lease of county hospitals in counties of 30,900 to 31,000 population

Any county in this State having a population of not less than thirty thousand nine hundred (30,900) and not more than thirty-one thousand (31,000) according to the United States Census of 1930, shall have authority to lease any county hospital belonging to said county to be operated as a county hospital by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners' Court of said county and the lessee. The action of the Commissioners' Court in leasing such hospital shall be evidenced by order of the Commissioners' Court, which order shall be recorded in the minutes of said Court. [Acts 1937, 45th Leg., 1st C.S., S.B. # 16, § 1.]

Effective July 6, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing counties of a certain class according to population to lease any county hospital of said county to be oper-

ated as a county hospital by the lessee; subjects; and declaring an emergency. prescribing regulations relating to said [Acts 1937, 45th Leg., 1st C.S., S.B. # 16.]

TITLE 75—HUSBAND AND WIFE

CHAPTER THREE—RIGHTS OF MARRIED WOMEN

Art. 4617. [4621] [2967] [2851] When wife may convey, etc.

If the husband be insane or shall have permanently abandoned his wife, or shall refuse to join in such encumbrance, conveyance or transfer of such property, the wife may apply to the district court of the county of her residence, and the court, in term time or vacation, upon satisfactory proof that such encumbrance, conveyance or transfer would be advantageous to the interests of the wife, shall make an order granting her permission to make such encumbrance, conveyance or transfer without the joinder of her husband, and she may then encumber, convey or transfer said property without such joinder.

In event the wife is a non-resident, she may apply to the district court of the county where the property, or a portion thereof, is situated, and the court shall hear and determine such application and grant relief the same as if the applicant were a resident of this State. [As amended Acts 1937, 45th Leg., S.B. # 445, § 1.]

Effective June 11, 1937. Section 3 of the amendatory Act of 1937 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 4626. Application to be feme sole

Any married woman, with the consent of and joined by her husband, may apply by written petition addressed to the district court of the county in which she may desire to transact business for judgment or orders of the said court removing her disabilities of coverture and declaring her feme sole for mercantile and trading purposes; such petition shall set out the causes which make it to the advantage of said married woman to be so declared feme sole, and shall be filed and docketed as in other cases, and at any time thereafter the district court may, in term time, take up and hear said petition and evidence in regard thereto. If upon a hearing of said petition and evidence relating thereto, it appears to the court that it would be to the advantage of the women applying, then said court shall enter its decree declaring said married woman feme sole for mercantile or trading purposes, and thereafter she may, in her own name, contract and be contracted with, sue and be sued, and all of her separate property not exempt from execution under the laws of Texas shall thereafter be subject to her debts and liable under execution therefor, and her contracts and obligations shall be binding on her. [As amended Acts 1937, 45th Leg., S. B. # 445, § 2.]

Effective June 11, 1937.

TITLE 76—INJUNCTIONS

2. IN PARTICULAR CASES

Art. 4667. [4685-93] Gaming and disorderly houses

The habitual use, actual, threatened or contemplated, of any premises, place or building or part thereof, for any of the following uses shall be enjoined at the suit of either the State or any citizen thereof:

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

1. For gaming or keeping or exhibiting games prohibited by law.
2. For keeping, being interested in, aiding or abetting the keeping of a bawdy or disorderly house, as those terms are defined in the Penal Code.
3. For carrying on bucket shops as defined in the Penal Code, or the habitual use by or permitting to remain in any such bucket shop, any telegraph or telephone wires or instruments, under circumstances prohibited by the Penal Code.
4. For the voluntary engaging in a fight between a man and a bull for money or other thing of value, or for any championship, or upon result of which any money or anything of value is bet or wagered, or to see which any admission fee is charged either directly or indirectly, as prohibited by the Penal Code.

Any person who may use or be about to use, or who may aid or abet another in the use of any such premises for any purpose mentioned in this Article may be made a party defendant in such suit. The Attorney General or any District or County Attorney may bring and prosecute all suits that either may deem necessary to enjoin such uses, and need not verify the petition; or any citizen of this State may sue in his own name and shall not be required to show that he is personally injured by the acts complained of. [As amended Acts 1937, 45th Leg., H.B. # 76, § 1.]

Effective 90 days after May 22, 1937, declared an emergency and provided that date of adjournment. the Act should take effect from and after Section 2 of the amendatory Act of 1937 its passage.

TITLE 78—INSURANCE

CHAPTER ONE—COMMISSIONER OF INSURANCE

[Art. 4682b. Fixing rate of automobile insurance]

Section 1. Every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's or other insurer, hereinafter called insurer, writing any form of motor vehicle insurance in this State, shall annually file with the Board of Insurance Commissioners, hereinafter called Commissioner, on forms prescribed by the Commissioner, a report showing its premiums and losses on each classification of motor vehicle risks written in this State. The Commissioner shall have the sole and exclusive power and authority, and it shall be its duty to determine, fix, prescribe, and promulgate just, reasonable and adequate rates of premiums to be charged and collected by all insurers writing any form of insurance on motor vehicles in this State, including fleet or other rating plan, designed to discourage losses from fire and theft and similar hazards and to take account of the peculiar hazards of individual risks, and an experience rating plan designed to encourage the prevention of accidents, and to take account of the peculiar hazards of individual risks, provided that only one such plan shall be fixed or promulgated for each form of insurance hereunder. Said Commissioner shall have the authority also to alter or amend any and all of such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same or any part thereof. Said Commissioner shall have authority to employ clerical help, inspectors, experts, and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this law; provided, however, that the number of employees and salary of each shall be fixed in the General Appropriation Bill passed by the Legislature. Said Commissioner shall ascertain as soon as practicable the annual insurance losses incurred under all policies on motor vehicles in this State, make and maintain a record thereof, and collect such data as will en-

able said Commissioner to classify the various motor vehicles of the State according to the risk and usage made thereof, and to classify and assign the losses according to the various classes of risks to which they are applicable; the Board shall also ascertain the amount of premiums on all such policies for each class of risks, and maintain a permanent record thereof in such manner as will aid in determining just, reasonable and adequate rates of premiums.

Motor vehicle or automobile insurance as referred to in this Act shall be taken and construed to mean every form of insurance on any automobile or other vehicle hereinafter enumerated and its operating equipment or necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use in this State of any automobile, motorcycle, motor-bicycle, truck, truck-tractor, tractor, traction engine, or any other self-propelled vehicle, and including also every vehicle, trailer or semi-trailer pulled or towed by a motor vehicle, but excluding every motor vehicle running only upon fixed rails or tracks. Workmen's Compensation Insurance is excluded from the foregoing definition and from the terms of this Act. [As amended Acts 1937, 45th Leg., S.B. # 77, § 1.]

Amendment of 1937, effective May 15, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Sec. 11-a. The State of Texas shall assess and collect an additional one-fifth of one per cent of the gross motor vehicle insurance premiums, of all insurers writing motor vehicle insurance in this State, according to the reports made to the Board of Insurance Commissioners as required by law. The tax herein required shall supercede the tax heretofore collected upon fire premiums of automobile insurance for the support of the Board of Insurance Commissioners. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Motor Vehicle Insurance Division Fund, to be used for the sole purpose of administering this Act; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board of Insurance Commissioners, such vouchers to be accompanied by itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which may hereafter be imposed, not in conflict with this Section of this Act. Should there be an unexpended balance at the end of any year in said fund, the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury together with said unexpended balance in the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the Motor Vehicle Division of the Board of Insurance Commissioners. [Acts 1927, 40th Leg., p. 373, ch. 253, § 11-a, as added Acts 1937, 45th Leg., S.B. # 77, § 2.]

Effective May 15, 1937.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

Art. 4725. [4734] May invest in what securities

A life insurance company organized under the laws of this State may invest in or loan upon the following securities, and none others, viz:

1. It may invest any of its funds and accumulations in the bonds of the United States, or of any State, county, or city of the United States; or in any bonds or interest bearing warrants issued by authority of law by any county, city, town, school district, or other municipality or subdivision which is now or hereafter may be constituted or organized under the laws of this State, and is authorized to issue such bonds and war-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

rants under the Constitution and laws of this State, provided legal provision has been made by a tax to meet said obligations; or in any paving certificates issued by any city in the State of Texas and secured by a first lien on real estate; or in bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,¹ when such bonds are issued against and secured by promissory notes or other obligations, the payment of which is secured by mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State; or in first mortgage bonds on real or personal property of any solvent corporation, and which has not at any time defaulted in the payment of interest on any of its obligations, but in no event shall the amount of such investment in the bonds of any one such corporation exceed five (5) per cent of the admitted assets of the insurance company making the investment; or in interest bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session.²

2. It may loan any of its funds and accumulations, taking as security therefor such collateral as under the previous subdivision it may invest in. It may also make loans upon first liens upon real estate, the title to which is valid and the value of which is forty (40) per cent more than the amount loaned thereon; or upon first liens upon leasehold estates in real property and improvements situated thereon, the title to which is valid, and the leasehold has not less than thirty (30) years to run before expiration; provided that the duration of any loan upon such leasehold estates shall not exceed a period of ten (10) years; or upon any obligation secured collaterally by any such first liens. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for at least fifty (50) per cent of the value thereof with loss clause payable to such company. It may also make loans upon the security of or purchase of its own policies. No loans on any policy shall exceed the reserve value thereof. No investment or loan, except policy loans, shall be made by any such insurance company, unless the same shall first have been authorized by the Board of Directors or by a committee charged with the duty of supervising such investments or loans. No such company shall subscribe to, or participate in, any underwriting of the purchase or sale of securities or property, or enter into any such transaction for such purpose, or sell on account of such company jointly with any other person, firm, or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property; but the disposition of its property shall be at all times within the control of its Board of Directors; provided that the provisions of this subdivision as to the value of the real estate compared to the amount loaned thereon and as to the duration of such loan shall not apply to loans secured by real estate which are insured under the provisions of Title II of the "National Housing Act," enacted by Congress of the United States and approved by the President, June 27, 1934.³

3. Any life insurance company of the State, for the purpose of investing its capital and surplus, or any part thereof, over and above the amount of its reserves, may purchase and hold as collateral security, or otherwise, and sell and convey the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent dividend paying corporation which has not defaulted in the payment of any of its obligations for a period of five (5) years, the current market value of which such stock, bonds, bills of exchange, or other commercial notes or bills and securities shall be at all times during the continuance of such loan at least fifty (50) per cent more than the sum loaned thereon; provided that no such company shall loan upon or invest in its own stock, nor more than five (5) per centum of its capital and surplus in the stock of

any corporation, and provided further that no such company shall invest any of its funds in any stock on account of which the holders or owners thereof may in any event, be or become liable to any assessment except for taxes, or in the stock of mining or oil companies or in the stock of manufacturing companies commonly known as industrials.

That in any case in which a life insurance company organized under the laws of this State, shall reinsure the business and take over the assets of another life insurance company, either domestic or foreign, all investments of such reinsured company that were authorized, when made, by the laws of the State in which it was organized, as proper securities for investment of the funds of a life insurance company, and which are taken over by such reinsuring company, shall be considered as valid securities of such reinsuring company under the laws of this State, provided such investments are approved by the Board of Insurance Commissioners of this State, and same are taken over on terms satisfactory to said Board; and upon the condition that the Board of Insurance Commissioners shall have the power to require the reinsuring company to dispose of such investments upon such notice as it may deem reasonable. [As amended Acts 1929, 41st Leg., p. 497, ch. 237; Acts 1931, 42nd Leg., p. 256, ch. 153; Acts 1935, 44th Leg., p. 28, ch. 10, § 1; Acts 1937, 45th Leg., H.B. # 213, § 1.]

1 39 Stat. 360.

2 Article 2603d.

3 12 U.S.C.A. §§ 1707-1715.

Amendatory act of 1937 effective April 16, 1937.

Section 2 of the amendatory Acts of 1937 declared an emergency making the Act effective on and after its passage.

CHAPTER FOUR—TEXAS SECURITIES AND GROSS RECEIPTS TAX

Art. 4766. [4776] "Texas securities"

The term "Texas Securities," as used in this Chapter, shall be held to include all bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,¹ when such bonds are issued against and secured by promissory notes or other obligations the payment of which is secured by mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State; bonds of the State of Texas; bonds or interest bearing warrants of any county, city, town, school district, or other municipality or subdivision, which is now or may hereafter be constituted or organized and authorized to issue such bonds or warrants under the Constitution and laws of this State; notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator; promissory notes and other obligations, the payment of which is secured by a mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State, the title to which real estate is valid and the market value of which is double the amount loaned thereon, exclusive of buildings, unless such buildings are insured against fire and kept insured in some company authorized to transact business in this State, and the policy or policies transferred to the company taking such mortgage or lien; obligations secured collaterally by such first lien notes; first mortgage bonds of any solvent corporation incorporated under the laws of this State and doing business in this State, and which has paid, out of its actual earning, dividends of an average of at least five (5) per cent per annum on the par value of all of its par value stock outstanding and on the sale value of all of its no par value stock outstanding for a period of at least five (5) years next preceding the date of such investment, and which has not at any time defaulted in the payment of interest on any of its obligations, any such investment in the bonds of

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

any one such corporation not to exceed five (5) per cent of the admitted assets of the insurance company making the investment; and loans made to policyholders on the sale security of the reserve values of their policies. The investments required by this Chapter may be made by the purchase of not more than one building site, and in the erection thereon of not more than one office building, or in the purchase, at its reasonable market value, of such office building already constructed and the ground upon which the same is located, in any city of the State of more than four thousand (4000) inhabitants. All real estate owned by life insurance companies in this State, on December 31, 1909, and all thereafter acquired under the provisions of this Chapter, or by foreclosure of a lien thereon, shall be treated, to the extent of its reasonable market value, as a part of the investment required by this Chapter. And 'Texas Securities' shall be held to include every character of investment authorized by the terms of this Article; provided that the above restrictions concerning mortgage loans shall not apply to loans insured by the Federal Housing Administrator. [As amended Acts 1929, 41st Leg., p. 497, ch. 237; Acts 1935, 44th Leg., p. 24, ch. 8, § 1; Acts 1937, 45th Leg., H.B. # 491, § 1.]

1 33 Stat. 360.

Became law without Governor's signature April 26, 1937.

1937, declared an emergency making the Act effective on and after its passage. It did not record the Governor's approval.

Section 2 of the amendatory Act of

Art. 4769. [4779] Reports showing gross receipts

Each life insurance company not organized under the laws of this State, transacting business in this State, shall annually, on or before the 1st day of March, make a report to the Commissioner, which report shall be sworn to by either the president or vice-president and secretary or treasurer of such company, which shall show the gross amount of premiums collected during the year ending on December 31st, preceding, from citizens of this State upon policies of insurance. Each such company shall pay annually a tax equal to three and three-fourths (3¾) per cent of such gross premium receipts. When the report of the investment in Texas securities, as defined by law, of any such companies as of December 31st of any year shall show that it has invested on said date as much as thirty (30) per cent of its total Texas reserves as defined by law, in promissory notes or other obligations secured by mortgage, deed of trust, or other lien on Texas real estate and/or in loans to residents or citizens of Texas secured by the legal reserve on the respective policies held by such borrowers, the rate of occupation tax shall be reduced to three and one fourth (3¼) per cent; and when such report shall show that such company has so invested on said date as much as sixty (60) per cent of its total Texas reserve, the rate of such tax shall be reduced to two and nine-tenths (2.9) per cent; and when such report shall show that such company has so invested, on said date, as much as seventy-five (75) per cent of its total Texas reserve, the rate of such tax shall be reduced to two and five-tenths (2.5) per cent. All such companies shall, in any event, make the investments in Texas securities in proportion to the amount of Texas reserves as required by law. Such taxes shall be for and on account of the business transacted within this State during the calendar year in which such premiums were collected, or for that portion thereof during which the company shall have transacted business in this State. This Act shall not in any manner affect the obligation for the payment of any taxes that have accrued and that are now due or owing, but the obligation as now provided by law for the payment of such taxes shall continue in full force and effect. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 5c; Acts 1937, 45th Leg., H.B. # 441, § 1c.]

Amendment of 1937, effective May 10, 1937.

CHAPTER FIVE—ASSESSMENT OR NATURAL PREMIUM COMPANIES

Art.

4782a. Repeals [New].

4782b. Application of act [New].

Art. 4782. [4792] Foreign mutual assessment life insurance companies; report of premiums or assessments; occupation tax in lieu of other taxes

Section 1. Each and every foreign mutual assessment life insurance company doing business in the State of Texas under the provisions of Chapter 5, Title 78, Revised Civil Statutes of Texas, 1925, shall file with the Board of Insurance Commissioners of Texas not earlier than the first day of January of each year nor later than the first day of March of each year, a report duly sworn to by two principal officers of such company. Such report shall be in addition to any and all other reports required by the laws of Texas to be filed by such companies, and shall contain the exact amount of money received by such companies from its Texas policyholders by way of premiums and/or assessments.

Sec. 2. There is hereby imposed upon such companies a tax of one (1) per cent of the gross amount of the receipts of such companies in Texas from premiums and/or assessments, as shown by the report provided for in Section 1 hereof. Such tax shall be paid by each and every such company in the manner as provided in Section 4 hereof.

Sec. 3. Upon the receipt of the report provided in Section 1 hereof the Board of Insurance Commissioners shall immediately certify to the State Treasurer the amount of taxes due by each of said companies.

Sec. 4. Each and every such company shall immediately pay to the State Treasurer the amount of tax due as shown by the certificate of the Board of Insurance Commissioners. Upon collection of the tax herein imposed upon such companies, the State Treasurer shall immediately certify such fact to the Board of Insurance Commissioners.

The tax herein imposed shall constitute an occupation tax and no company included in the provisions shall receive a license or certificate to do business in Texas for the year following March 1st of each year unless and until said tax has been paid.

Sec. 5. The tax herein imposed upon the companies herein included shall constitute all taxes and license fees collectable under the laws of this State except the fee provided for under Article 3920, Revised Civil Statutes of Texas, 1925, Section 1, Regular Session, and no other taxes shall be collected or levied against such companies by any county, city, or town except State, county, and municipal ad valorem taxes on personal and real property of such companies. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #81, § 1.]

Effective Nov. 1, 1937.

Section 4 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

This article prior to the amendment of 1937 constituted a part of chapter 5 of the Revised Civil Statutes of 1925 consisting of articles 4781, 4782, 4783, which

was repealed by Acts 1929, 41st Leg., 1st C.S., p. 90, ch. 40, § 18, as amended 1929, 41st Leg., 2nd C.S., p. 99, ch. 60, § 1 (see article 4860a—18). The repealing section, however, provided that the repeal should not apply to or affect any company or association doing business under the laws repealed at the time of such repeal.

Art. 4782a. Repeals

All laws or parts of laws of this State in conflict herewith are hereby expressly repealed; however, it is hereby expressly provided that no part of Acts of 1929, First Called Session, Forty-first Legislature,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Chapter 40,¹ as amended Acts 1929, Forty-first Legislature, Second Called Session, Chapter 60 or Senate Bill No. 81, Acts of the Regular Session of the Forty-fifth Legislature,² shall in any manner be affected by the terms hereof. [Acts 1937, 45th Leg., 2nd C.S., H.B. #81, § 2.]

¹ Articles 4860a—1 to 4860a—19; P.C. art. 1117a.

Effective date and emergency. See notes under article 4782 of this title.

² Article 4858a.

Art. 4782b. Application of act

It is expressly provided that nothing herein is to authorize the Board of Insurance Commissioners to issue a permit to do business in Texas to any foreign mutual assessment life insurance company that is not now doing business here. It is the intention of this Act to regulate and levy a tax on those companies that are now doing business here. [Acts 1937, 45th Leg., 2nd C.S., H.B. #81, § 3.]

Effective date and emergency section.
See note under article 4782 of this title.

CHAPTER EIGHT—FRATERNAL BENEFIT SOCIETIES

Art.

4858a. Exemption from taxation of fraternal benefit societies [New].

Art. 4858. Taxation

Except as to premium on gross receipt taxes levied by this Article or other provisions of laws of this State, fraternal benefit societies organized or licensed under this Chapter are hereby declared to be exempt from all and every State, county, municipal and school district taxes other than taxes on real estate and office equipment when same is used for other than lodge purposes, inasmuch as such societies are charitable and benevolent institutions.

Each fraternal benefit society not organized under the laws of this State but transacting business in this State shall, when it makes its annual report to the Commissioner, make a report, which shall be sworn to by two executive officers of the society, showing the total amount of premiums or contributions made to the society for or on account of its policies or beneficial certificates, providing for death or other disability benefits, during the year ending December 31st, preceding, for or on the lives of citizens of this State. Each such society or association shall pay annually at the time of making such report, an occupation tax equal to three and three-quarter per cent (3.75%) of such total contributions. At the time of making the report, as above required, each society or association shall also file a report showing the amount of the reserve accumulated and on hand with respect to its beneficial certificates on the lives of citizens or residents of this State. Each society or association shall also show in such report the amount it has invested in Texas securities as that term is defined in Chapter 4, Title 78, Revised Civil Statutes, 1925, and amendments thereto. When such report shall show that on December 31st, preceding, such society or association had invested as much as thirty per cent (30%) of the reserves above mentioned in promissory notes or other obligations secured by mortgage, deed of trust or other lien on Texas real estate and/or in loans to Texas citizens or residents secured solely by the legal reserve on the respective policies or certificates held by such borrowers, the rate of such tax shall be reduced to three and one-quarter per cent (3.25%) and when such report shall show that as much as sixty per cent (60%) of such re-

serve has been so invested the rate of such tax shall be reduced to two and nine-tenths per cent (2.9%), and when such report shall show that as much as seventy-five per cent (75%) of such reserve has been so invested the rate of such tax shall be reduced to two and one-half per cent (2.5%). No such society or association shall receive a license or permit to do business for the year in which such tax is due until same has been paid. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 5d.]

Effective Oct 31, 1936.

See article 4858a for similar provisions.

Art. 4858a. Exemption from taxation of fraternal benefit societies

Every fraternal benefit society organized or licensed under the provisions of Chapter 8 of Title 78 of the Revised Civil Statutes of Texas, is hereby declared to be a charitable and benevolent institution, and all of the funds of such fraternal benefit society shall be exempt from all and every state, county, district, municipal and school tax, including occupation taxes, other than taxes on real estate and office equipment when used for other than lodge purposes. [Acts 1937, 45th Leg., S.B. # 81, § 1.]

Effective March 1, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

See article 4858 for similar provisions.

Title of Act:

An Act declaring all fraternal benefit societies, organized or licensed under the provisions of Chapter 8, of Title 78 of the Revised Civil Statutes of Texas, to be

charitable or benevolent institutions and exempting the funds of all such fraternal benefit societies from all and every state, county, district, municipal and school tax, including occupation taxes, other than taxes on real estate and office equipment when same is used for other than lodge purposes; and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 81.]

Art. 4859f. [Mutual assessment life insurance corporations]

Sec. 6. [Examination] In addition to the annual report required by said House Bill No. 303,¹ the Life Insurance Commissioner shall once in every two (2) years or oftener, if he deems it advisable, require the books, records, accounts, and affairs of any corporation or association qualifying and acting under said Act to be examined and audited by an accountant or accountants, or examiner designated and commissioned by him. For the purpose of any examination, the Commissioner and the auditors and examiners shall have free access to all books, records, papers, and accounts of the corporation, and the cost for the time required in making such examination and audit, and all necessary expenses in connection therewith shall be paid by the corporation upon presentation of a bill showing the charges made by the Department, which shall include the salaries, traveling expenses, hotel bills, and other expenses of said auditors and examiners, together with all other expenses in connection with such examination. Each corporation or association shall be charged with the salary of the auditors and examiners, for the time required in making such examination and the time required in connection with going to and from the place or places, necessary in connection with such examination, together with all expenses incurred by such auditors and examiners, and in addition thereto each corporation or association shall be charged by the Commissioner with an amount equal to the salaries of the actuary, examination clerk or clerks, stenographers, and all other employes employed in connection with the examination work in the Department for the time said employes are performing duties in connection with the examination by each corporation so examined. The amounts so collected shall be paid into the Examination Fund of the

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State Treasury Department and paid out in accordance with the general examination laws.

The Commissioner or his deputy or any examiner shall have the right to require any officer, agent, or employe of any company or association operating under this law, or any other person to be sworn and to answer under oath any questions regarding the affairs or activities of said association or company, and the Commissioner, his deputy, and any examiner or auditor is hereby authorized to administer such oath. All laws or parts of laws with reference to the examination of organizations operating under House Bill No. 303,¹ Acts of the Forty-third Legislature, that are in conflict with this Act are hereby expressly waived.

It shall be the duty of the Commissioner to require any corporation, person, firm, association, local mutual aid association, or any local association, company, or organization to have a certificate of authority before being authorized to carry on any insurance business in this State. If, in any event, any such company, person, firm, association, corporation, local aid association, or local organization is writing any form of insurance whatsoever without a permit or certificate of authority issued by the Department of Insurance of Texas, it shall be the duty of the Commissioner to make known said fact to the Attorney General of the State of Texas, who is hereby required to institute proceedings in the District Court of Travis County to restrain such corporation, person, firm, association, company, local aid association, or organization from writing any insurance of any kind or character without a permit. Provided no provisions of this Act shall be construed to apply to any corporation, association, or partnership, individual, or joint stock company engaged in the undertaking business, or to any advertising corporation, association, and/or partnership, individual, or joint stock company with whom they have contracts, and provided further that the provisions of this Section shall not apply to associations which limit their membership to the employes and the families of employes, of any particular designated firm, corporation, or individual and which are not operated for profit and which pay no commissions to anyone, and whose operating expense does not exceed One Hundred Dollars (\$100) per month. Provided, however, that all such associations shall make annual report to the Department of Insurance on blanks furnished for that purpose showing their financial condition, receipts and expenditures, and such other facts as the Board of Insurance Commissioners may require. No such association shall be permitted to operate, however, without making report to the Insurance Department and getting a permit to do so. Such permit shall be for the current year or fractional part thereof and shall expire on the 1st day of March thereafter and shall be renewed annually upon the approval of the financial statement of the organization by the Board of Insurance Commissioners. All such organizations shall have six (6) months after the time that this Act goes into effect within which to comply with its conditions. If any organization fails to qualify under this Act or fails to comply with its requirements in any manner it shall be the duty of the Board of Insurance Commissioners to report the same to the Attorney General who shall at the request of said Board file such suit as may be necessary to wind up the affairs of such association and, if necessary, have a Receiver appointed for that purpose. The venue of such suits shall be laid in the District Court of Travis County, Texas.

No law of this State pertaining to insurance shall be construed to apply to the establishment and maintenance by individuals, associations, or corporations of sanatoriums or hospitals for the reception and care of patients for the medical, surgical, or hygienic treatment of any and

all diseases, or for the instruction of nurses in the care and treatment of diseases and in hygiene, or for any and all such purposes, nor to the furnishing of any or all such services, care of, instruction in, or in connection with any such institution, under or by virtue of any contract made for such purposes with residents of the county in which such sanatorium or hospital is located. [As amended Acts 1935, 44th Leg., p. 651, ch. 264, § 1; Acts 1937, 45th Leg., H.B. # 893, § 1.]

1 This article.

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act reads as follows: "All laws or parts of laws requiring permits or certificates of authority for associations which limit their membership to the employes and the families of employes of any particular designated firm, corporation, or individual and which are

not operated for profit and which pay no commissions to anyone and whose operating expenses do not exceed One Hundred Dollars (\$100) per month are hereby expressly repealed."

Section 3 of the amendatory Act of 1937 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER NINE—MUTUAL INSURANCE COMPANIES

Art.

4860a—20. County Mutual Insurance Companies; definitions [New].

Art. 4860a—17. Taxes and fees

This article, in so far as it relates to payment of taxes, was repealed by Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495,

art. 4, § 5a, and Acts 1937, 45th Leg., H.B. # 441, § 1a.

Effective Oct. 31, 1936.

Art. 4860a—20. County Mutual Insurance Companies; definitions

Section 1. County Mutual Insurance Companies are companies organized for the purpose of insurance on the mutual or cooperative plan against loss or damage by fire, lightning, gas explosion, theft, windstorm and hail, and for all or either of such purposes.

Unless they are restricted by their charters, they may write insurance against said hazards:

(a) On both rural and urban dwellings and attendant out-houses and yard buildings and all their contents for home and personal use—including family vehicles, musical instruments and libraries;

(b) On barns and other farm, dairy, truck garden, hennery and ranch buildings and improvements of every description;

(c) On all vehicles, harness, implements, tools and machinery of every kind and description used on and about farms, truck gardens, dairies, henneries or ranches;

(d) On all fruits and products, other than growing crops, and all fowls, domestic animals and livestock of every description, produced, raised, grown, kept or used on truck gardens, henneries, farms, ranches and dairies; and

(e) On church houses, country school houses, country lodge rooms and country recreation halls, other than road houses and public dance halls and their contents.

Formation of company

Sec. 2. Any number of bona fide inhabitants, not less than twenty-five, residing in any one or more adjoining counties in this State, who each own insurable property in such counties of the value of not less than One Thousand (\$1,000.00) Dollars, who desire to have the same insured for a sum not less than said amount, and have applied in writing for insurance on the same in the company, may form a County Mu-

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tual Insurance Company, and have the same incorporated under the laws of the State of Texas.

Application for permission to solicit insurance

Sec. 3. Any five or more of such inhabitants, desiring to form a County Mutual Insurance Company, may apply to the Board of Insurance Commissioners of the State of Texas for permission to solicit insurance on mutual or cooperative plan, which application shall state:

(a) The name of the company, which name shall include the words "County Mutual Insurance Company";

(b) The locality of the principal business of such company;

(c) The kind of insurance business the company proposes to engage in;

(d) The names and places of residence of not less than five persons making such application;

(e) An affidavit of at least one of said applicants correctly stating the names and residences of such applicants.

Upon receipt of such application, together with a Ten (\$10.00) Dollar fee for filing of same, the Board of Insurance Commissioners shall at once file it and issue a permit (for a period of six months), authorizing said applicant or applicants to solicit insurance on the mutual or cooperative plan in accordance with the terms of the application, but not to issue policies of insurance or pay losses. Such permit may be renewed as often and as long as the Board of Insurance Commissioners finds it necessary upon application therefor and upon payment of Five (\$5.00) Dollars for each renewal. Moneys collected from applicants other than charter members shall be held in trust for them until incorporation and returned in the event the organization is not perfected.

Charter and articles of incorporation; contents

Sec. 4. The charter and articles of incorporation of a county mutual insurance company shall state the names and post office addresses and be signed by not less than twenty-five (25) of its charter members, and be acknowledged before a notary public by not less than five (5) of them.

It shall also state the name of the company, which shall include the words "County Mutual Insurance Company", the place of its principal office; the number, names and post office addresses of its first Directors, the number never to be less than five; and such other provisions as the incorporators may desire to set out therein.

Conditions of incorporation

Sec. 5. Before a charter shall be granted a county mutual insurance company, the incorporators must have on hand:

(a) Not less than twenty-five (25) applications in writing for insurance on not less than one hundred (100) separate risks; provided that no one risk shall be for more than one per cent (1%) of the total amount of insurance applied for in the new company, and that a separate risk shall be one or more items of real and/or personal property which is not exposed to any other property on which insurance is applied for in the new company;

(b) Not less than One (\$1.00) Dollar for each One Hundred (\$100.00) Dollars of insurance applied for at the time of incorporation, in cash or in approved legal assets, and in addition thereto a like amount of written valid extra premium or assessment obligations; provided the cash or legal assets required may be advanced by one or more persons

and may be secured by the legal assets of the company—other than the assets so advanced; and

(c) Said application for charter shall also be accompanied by a copy of the by-laws of the company, and the bond of the Secretary or Manager of the same in such sum and conditioned as the Directors may determine.

When the foregoing requirements have been complied with to the satisfaction of the Commissioner of Insurance, the Commissioner of Insurance, upon the payment of a fee of Fifty (\$50.00) Dollars, shall issue such Company a charter to do business as an incorporated company.

By-laws

Sec. 6. The by-laws shall state the time and manner of the levy and payment of all premiums or assessments for all insurance written by the company.

They shall also fix the liability of the policy-holders for all losses accrued while the policies are in force, in addition to the regular premium or assessments for the same; and the time and manner of the payment of such liability; provided that the amount of such liability shall never be less than One (\$1.00) Dollar for each One Hundred (\$100.00) Dollars of insurance in such policy; and provided further that such liability shall be a part of the assets of the Company and in the statement of the assets and liabilities of the Company shall be listed separately as "contingent liability of policy-holders".

County Mutual Companies may adopt all rules, regulations, provisions and requirements contained in the standard policies of companies writing fire, gas explosion, lightning, windstorm or hail insurance as promulgated from time to time by the Commission of Insurance of the State of Texas, insofar as they are applicable to County Mutual Insurance Companies, as a part of their by-laws and contracts of insurance, which adoption shall be evidenced either by statement to that effect in the by-laws or in the policies.

The by-laws may also provide that when a loss occurs, the Companies may, at their option provide and require that all or a certain percent of the money to be paid for the loss be put back into a replacement or repair of the property damaged or destroyed, provided such provision may be equally made applicable to real and personal property and property exempt from execution such as homesteads or buildings on the homestead and exempt personal property. Provided also that County Mutual Companies may in their by-laws provide that the requirements of Article 4929, Revised Civil Statutes 1925 shall not be applicable to their contracts of insurance.

Premiums and assessments

Sec. 7. All premiums and assessments, including the contingent liability of policy-holders for all insurance written by County Mutual Insurance Companies shall be fixed, levied and paid as and when required by the by-laws of the Companies and the whole premium or assessment for a policy shall be secured by a lien on each item of real or personal property other than homesteads covered by such policy including the land on which the insured buildings are situated, as long as the same remains the property of the insured.

If default is made by a policy-holder in the payment of an assessment or premium, suit may be brought against him for the same in any court of competent jurisdiction in the home County of the Company and the Company shall be entitled to have judgment against him for such delinquent premiums or assessments, and for a foreclosure of said lien,

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together with all costs of suit including a reasonable attorney's fee in a sum of not less than Five (\$5.00) Dollars.

Policy holders liabilities

Sec. 8. Policy-holders shall be liable for losses of the Company only as prescribed in the by-laws of the Company, and that only in proportion that the premiums or assessments for the Insurance of any policy bear to the total amount of the premiums or assessments for all the insurance in the class to which the policy belongs.

Directors power to borrow

Sec. 9. The Board of Directors of County Mutual Insurance Companies may, at any time, borrow such sum or sums of money as they shall deem necessary to pay its losses, accrued or unaccrued, and may pledge the assets of the Company including the contingent liability of the policy-holders for such losses as security for such loans.

Solvency

Sec. 10. A County Mutual shall be considered solvent and entitled to continue business if its assets, including the contingent liability of its policy-holders for its losses, are reasonably sufficient to pay its losses, according to the terms of the policies.

If there are unpaid losses after all the assets of the Company have been exhausted, and a rehabilitation of the Company is not effected within six months after the exhaustion of such assets, then the Attorney General of the State shall at the request of the Commission of Insurance of the State, bring suit in the District Court in and for Travis County to cancel the charter of such Company.

Directors; qualifications; term

Sec. 11. Directors of County Mutual Insurance Companies shall hold their office for one year after their election, and until their successors qualify, unless otherwise provided in their by-laws.

Only bona fide policy-holders who carry insurance on their property in an amount not less than One Thousand (\$1,000.00) Dollars each in a Company, shall be eligible to become or remain Directors of the same. When a Director reduces his said insurance below such amount, he shall no longer be qualified to act as such Director.

Charter to prescribe power of directors

Sec. 12. The Board of Directors of County Mutual Insurance Companies shall have such discretion, power and authority as their charter shall provide.

Voting by policy holders

Sec. 13. Each policy-holder in a County Mutual Insurance Company shall be entitled to only one vote in all policy-holders' meetings.

No voting by proxy shall be permitted unless it is specially authorized by the by-laws.

Meetings

Sec. 14. The meetings of the policy-holders of County Mutual Insurance Companies shall be held at such time or times, in such place or places, and in such manner for the purpose of electing Directors and transacting any business coming before them as prescribed in their by-laws.

Special meetings may be held upon the call of the President, the General Manager, one-third of the Directors of the Company, or the Commissioner of Insurance of the State of Texas.

Location of business

Sec. 15. A County Mutual Insurance Company may write insurance (a) in any County adjoining the County in and for which it is organized, or (b) in any County in which no County Mutual Insurance Company has been organized, or (c) anywhere, if its reserve fund, or policy-holders contingent liability, or both such reserve fund and contingent liability taken together, exceeds the sum of Fifty Thousand (\$50,000.00) Dollars.

Reserve funds

Sec. 16. The Board of Directors of County Mutual Insurance Companies may provide for the accumulation of reserve funds, to be invested in such securities as the reserve funds of other Insurance Companies are by law required to be invested.

Annual reports to policy holders and Commissioner of Insurance

Sec. 17. County Mutual Insurance Companies shall annually make and submit written reports to their policy-holders showing (a) the rate and total amount of premiums or assessments paid during the year for their insurance, (b) the operating expenses, (c) and the names of the claimants and the amounts paid each for the losses suffered; and send each policy-holder a copy of such report as and when prescribed in the by-laws of the Company; provided, however, that it shall not be necessary to report the names and amounts of claims of policy-holders of one class of insurance to the policy-holders in another class, unless the policy-holders in such other class are liable for the losses of the former class.

They shall also make such reports annually to the Commission of Insurance of the State of Texas as the Commission may require of them, or as shall be required by law.

Biennial examination by Insurance Commissioner

Sec. 18. The Insurance Commission of the State of Texas shall biennially, or oftener, if they deem it necessary, examine the County Mutual Insurance Companies.

Companies regarded as County Mutual Insurance Companies

Sec. 19. All incorporated or unincorporated mutual fire, storm and lightning insurance companies or associations in this State that do not do a general fire insurance business, but limit their business to the insuring of farm, residential and/or householder property, real and/or personal, anywhere in this State against any one or more of the hazards against which County Mutuals may insure, or when it so limits its insurance business, shall, for the purpose of this Act, be considered County Mutual Insurance Companies.

Any such company or association, which has been or hereafter shall be in business for more than twenty years may, at any time before its charter expires by lapse of time, have its charter extended for a period of fifty years from the time of expiration of the original charter, and shall, under the extended charter, continue to have and enjoy all the rights, privileges and immunities that it had under the original charter; provided, however, that it is first authorized to extend its said charter either by a two-thirds majority vote of all of its Directors, or by a simple majority vote at a meeting of its policy-holders. The application for

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such extension shall set out in haec verbae the charter to be extended, and it shall state the time for which it is to be extended and be signed and acknowledged by the President and Secretary of the Company.

Any such Company whose charter has expired or may hereafter expire by lapse of time, but is or shall be still doing business in this State, may have its charter renewed for a term of fifty years from the time of the expiration of the original charter in like manner as charters may be extended, and from the time of such renewal it shall be entitled to all the rights, privileges and immunities it had and enjoyed under the original charter.

Any such unincorporated Mutual Fire Insurance Company which has heretofore been in business continuously for a period of five years or more, and has paid all its losses promptly according to contract, may, at any time hereafter, when authorized to do so by two-thirds of its Directors, or by a majority vote of its policy-holders, apply for a charter and be incorporated for a term of fifty years as a County Mutual Insurance Company under the laws of Texas without complying with Sections 2 to 5 inclusive, of this Act. The application for such charter shall state its name, its purposes, the location of its principal office, the number and names of its Directors, and the nature and value of its assets, and it shall be signed and acknowledged by its President and Secretary. It shall thereupon be entitled to a charter and to function and do business as a County Mutual Insurance Company, and enjoy the same rights, privileges and immunities that it had and enjoyed as an unincorporated company, except as otherwise herein provided. Provided, however, that any such unincorporated company or association organized solely for mutual protection of property of its members and not for profit, which has heretofore been doing business for a period of ten years or more, and has paid all of its losses promptly according to contract, may continue to do business as an unincorporated association, and in such event, such association shall be exempt from all insurance laws of this State, except that such Company or association shall make the annual reports to the Commission of Insurance of the State of Texas as provided in Section 17, hereof, and shall be subject to examination by the Insurance Commission of the State of Texas as provided in Section 18 hereof.

Reciprocal insurance contracts

Sec. 20. County Mutual Insurance Companies may reinsure any or all of their risks against any or all hazards which they are permitted to insure against with any other company or companies.

They shall have power and authority to make and enter into mutual or reciprocal reinsurance contracts with other Companies on the mutual or cooperative plan; provided that no County Mutual shall write or assume the reinsurance on any other property than the property it is permitted to insure, or on property situated outside of the State of Texas; and when such a County Mutual reinsures the property of another Company, it shall not by reason of such fact be, or become a member or partner, of such other Company, but shall only become liable for the losses of such other Company as specified in the Contract of interinsurance and not otherwise; and provided further, that a County Mutual shall only have authority to reinsure the risks of another Company in consideration of the fact that such other Company reinsures its risks; and for that purpose it may pay or collect additional assessment and/or premiums as the case may be.

Organization of local chapters

Sec. 21. The by-laws of County Mutual Insurance Companies may provide for the organization of local chapters for the transaction of their business and for the creation of Districts in and for which their Directors may be elected. The by-laws may also provide that delegates from local chapters constitute the supreme governing body of the Company. In the organization of local chapters, and the creation of the districts, the hazards insured against, and the classes of risks, as well as the territory of operation, may be taken into consideration.

Removal of officers or employes

Sec. 22. The Board of Directors of a Company may at any time, in any meeting by a two-thirds majority vote of all the Directors, remove any Officer of the Company from his office, or any of the employes from their employment, without assigning any reason therefor, and name another person or persons to assume the duties of the one or ones removed, when, in their judgment, it shall be deemed to the best interest of the Company, and the term of office of every officer of a Company, and the employment of every employee shall be subject to this provision of the law.

Exemption from insurance laws

Sec. 23. County Mutual Insurance Companies shall be exempt from the operation of all insurance laws of this State, except as herein specifically provided.

By laws as part of contracts

Sec. 24. By-laws of the Company shall always constitute a part of the contract with the insured and the policy shall so state.

Provision against waiver of by laws

Sec. 25. Such Companies may provide in their by-laws that local chapters and officers and agents elected by them do not have the power to waive any provision of such by-laws.

Partial invalidity

Sec. 26. If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. [Acts 1937, 45th Leg., S.B. # 121.]

Effective April 6, 1937.

Section 27 declared an emergency making the Act effective on and after its passage.

Title of Act:

An Act defining County Mutual Insurance Companies, providing the hazards against which they may write insurance, providing for incorporation of County Mutual Insurance Companies and the requirements therefor, providing for permits to solicit insurance on the mutual or cooperative plan and requirements thereof; providing requirements and contents of charters; authorizing such companies to adopt by-laws for the regulation and management of their affairs; providing for a lien to secure payment of premiums and

assessments; liability of policy holders on the mutual plan; authorizing such companies to borrow money and defining solvency of such companies; providing for meetings of policy-holders; limiting territory in which it can operate; providing for accumulation of reserve funds and for investment thereof; requiring written annual reports to members; providing for examination of County Mutual Insurance Companies by the Insurance Commission of the State of Texas; exempting unincorporated Mutual Companies or Associations except for filing annual reports; providing that such Companies now in business shall be known as County Mutual Insurance Companies; providing that charters of such Companies expired or about to expire may

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be extended for an additional fifty years with same rights enjoyed under its original charter and stating prerequisites to such extension; and providing for subsequent renewals of charters; authorizing reinsurance on defined conditions of any or all risks and contracts essential thereto; authorizing organization of local lodges for conduct of business and for representa-

tive form of government; providing for removal of officers, exemption from all insurance laws except as herein provided; requiring that by-laws constitute part of contract with insured; providing that unconstitutionality of any part of this Act shall not affect the remainder thereof, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #121.]

CHAPTER TEN—STATE INSURANCE COMMISSION

Art.

4918a. Tax on gross premiums for Workmen's Compensation Insurance [New].

Art. 4902. Tax on premiums as additional tax

The State of Texas shall assess and collect an additional one and one-fourth per cent of the gross fire and/or lightning, and/or tornado, and/or windstorm, and/or hail insurance premiums of all companies doing the business of fire or lightning or tornado or wind storm or hail insurance in this State according to the reports made to the Board of Insurance Commissioners as required by Law; and said taxes when collected shall be placed with the State Treasurer in a separate fund which shall be known as the Fire Insurance Division Fund. which Fund shall be kept separate and apart from other funds and moneys in his hands; and said special Fund or so much thereof as may be necessary shall be held and expended for the purpose of carrying out the provisions of this Chapter; and should there be an unexpended balance at the end of any year, said balance shall remain in said Fund and the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury, together with said unexpended balance in said Fund in the Treasury, will be sufficient to pay all expenses for the current year, and not exceed the amount necessary to pay all necessary expenses of maintaining the Fire Insurance Division of said Board, so that no deficit shall occur in said Fund, which funds shall be paid out upon requisition made out and filed by a majority of the Commission, when the Comptroller shall issue warrants therefor. The taxes levied and assessed by this Section shall be independent of and in addition to all other taxes now imposed, or which may hereafter be imposed by law, against any company mentioned herein. [As amended Acts 1931, 42nd Leg., p. 306, ch. 180, § 2; Acts 1937, 45th Leg., H. B. # 470, § 1.]

Effective March 4, 1937.

Section 2 of the amendatory act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

Art. 4906. [Repealed by Acts 1937, 45th Leg., H.B. #471, § 2]

Effective March 4, 1937.

Art. 4918a. Tax on gross premiums for Workmen's Compensation Insurance

To defray the expense of carrying out the provisions of Articles 4907 to 4918, inclusive, Chapter 10, Title 78, Revised Civil Statutes of Texas of 1925, there shall be annually assessed and collected by the State of Texas from each stock company, mutual company, reciprocal or inter-insurance exchange, or Lloyds association writing Workmen's Compensa-

tion Insurance in this State, in addition to all other taxes now imposed, or which may hereafter be imposed by law, a tax of three-fifths of one per cent of gross premiums collected by such company or association during the preceding year, under Workmen's Compensation policies written by said companies or associations covering risks in this State, according to the reports made to the Commissioner as required by law. Said taxes when collected shall be placed in a separate fund with the State Treasurer which shall be kept separate and apart from other funds and moneys in his hands, and shall be known as the Compensation Insurance Division Fund, said Fund to be expended during the current and succeeding years, or so much thereof as may be necessary, in carrying out such provisions. Such expenditures hereunder shall not exceed in the aggregate the sum assessed and collected from said companies and associations; and should there be an unexpended balance at the end of any year, the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury together with said unexpended balance in the Treasury will be sufficient to pay all expenses of carrying out the provisions of said Articles, which funds shall be paid out upon requisition made out and filed by a majority of the Board of Insurance Commissioners when the Comptroller shall issue warrants therefor. Any amount remaining in said Fund at the end of any year shall be carried over and expended in accordance with the provisions of this Act during the subsequent year or years. [Acts 1937, 45th Leg., H.B. # 471, § 1.]

Effective March 4, 1937.

Section 2 of Acts 1937, 45th Leg., H.B. # 471, repeals art. 4906 and section 3 provides in substance that if any portion of the section is held invalid, such invalidity shall not affect the remainder of the act. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the annual assessment and collection of a tax on premiums for Workmen's Compensation Insurance policies written by stock companies, mutual companies, reciprocals or inter-insur-

ance exchanges, or Lloyds associations covering risks in this State to defray the salaries and expenses of carrying out the provisions of Articles 4907 to 4918, inclusive, Chapter 10, Title 78, Revised Civil Statutes of Texas of 1925, and providing that any unexpended balance shall be carried over in succeeding years in a separate fund, and shall reduce the assessment for succeeding years, and repealing Article 4906, Revised Civil Statutes of 1925; providing a saving clause, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 471.]

CHAPTER ELEVEN—FIRE AND MARINE COMPANIES

Art. 4925. [4870] Shall file bond

Every fire insurance company, not organized under the laws of this State, applying for a certificate of authority to transact any kind of insurance in this State, shall, before obtaining such certificate, file with the Commissioner a bond, with good and sufficient surety or sureties, to be approved by and to be payable to the Commissioner and his successors in office, in a sum equal to twenty-five (25%) per cent of its premiums collected from citizens or upon property in this State during the preceding calendar year, as shown by its annual report for such year. The bond in no case shall be less than Ten Thousand (\$10,000.00) Dollars, nor more than Seventy-five Thousand (\$75,000.00) Dollars, conditioned that said company will pay all its lawful obligations to citizens of this State. Such bonds shall be subject to successive suits by citizens of this State so long as any part of the same shall not be exhausted, and the same shall be kept in force until all claims of such citizens arising out of obligations of said company have been

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fully satisfied, but in no event shall the total recoveries permitted on said bonds exceed the face value thereof. Such bonds shall provide that in the event the company shall become insolvent or cease to transact business in this State, at any time, when it has outstanding policies of insurance in favor of citizens of this State, or upon property in this State, the Commissioner shall have power, after having given ten (10) days notice to the officers of such company, or any receiver in charge of its property and affairs, to contract with any other insurance company transacting business in this State for the assumption and reinsurance by it of all the insurance risks outstanding in this State of such company which is insolvent, or which has ceased to transact business in this State, which contract shall also provide for the assumption by such reinsurance company of all outstanding and unsatisfied lawful claims then outstanding against such company which has become insolvent, or ceased to transact business in this State. In the event of the Commissioner making any such contract, and if the same shall be approved as reasonable by the Attorney General and the Governor of this State, the reinsuring company shall be entitled to recover from the makers of such bond the amount of the premium or compensation so agreed upon for such reinsurance. Any company desiring to do so may, at its option, in lieu of giving the bond required by this Article, deposit securities of any kind in which it may lawfully invest its funds with the State Treasurer upon such terms and conditions as will in all respects afford the same protection and indemnity as herein provided for to be afforded by said bond. [As amended, Acts 1937, 45th Leg., S.B. # 144, § 1.]

Effective 90 days after May 22, 1937, date of adjournment. declared an emergency and provided that the Act should take effect from and after its passage.

Section 3 of the amendatory Act of 1937

Art. 4926. [4871] May deposit securities

Every fire insurance company, not organized under the laws of this State, hereafter issuing or causing or authorizing to be issued, any policy of insurance other than life insurance, shall first have filed with the Commissioner during the calendar year in which such policy may issue, or authorize or cause to be issued, a bond of good and sufficient sureties to be approved by such Commissioner in a sum of not less than Ten Thousand (\$10,000.00) Dollars, conditioned for the payment of all lawful obligations to citizens of this State arising out of any policies or contracts issued by such fire insurance company; which such bonds shall be subject to successive suits by citizens of this State so long as any part of the same shall not be adjusted, and so long as there remains outstanding any such obligations or contracts of such fire insurance company, but in no event shall the total recoveries permitted on said bond exceed the face value thereof. This Article shall not apply to any person, firm or corporation, or association, doing an inter-insurance, co-operative or reciprocal business. [As amended Acts 1937, 45th Leg., S.B. # 144, § 2.]

Effective 90 days after May 22, 1937, date of adjournment.

CHAPTER TWELVE—FIRE, LIGHTNING, HAIL AND STORM COMPANIES

Art. 4941. Investment of funds

Funds of mutual companies may be invested in United States Bonds, Texas State Bonds, county or city bonds of this State, if such bonds

are issued by authority of law and interest upon them has never been defaulted; or in first mortgages on improved real estate within the State where the first mortgage does not exceed fifty (50) per cent of the value of the land and improvements thereon; or in notes or bonds secured by mortgage or deed of trust insured by the Federal Housing Administrator; provided that the above restrictions concerning mortgage loans shall not apply to such insured securities. [As amended Acts 1935, 44th Leg., p. 20, ch. 5, § 1; Acts 1937, 45th Leg., H.B. # 495, § 1.]

Effective June 9, 1937.
Section 2 of the amendatory Act of 1937
declared an emergency and provided that

the Act should take effect from and after
its passage.

CHAPTER EIGHTEEN—GENERAL CASUALTY COMPANIES

Art. 4993. Capital and deposits

Only companies organized and doing business under the provisions of this Chapter shall be subject to its provisions. Such company shall have not less than One Hundred Thousand Dollars (\$100,000) of capital stock subscribed, paid in, in cash, with an additional Fifty Thousand Dollars (\$50,000) of capital stock subscribed and fully paid in, in cash, for every kind of insurance more than one which it is authorized to transact. Such companies with Two Hundred Thousand Dollars (\$200,000) of capital stock subscribed and fully paid in, in cash, shall be authorized to transact all and every kind of insurance specified in the first Article of this Chapter; all of which said capital stock shall be paid up or invested in bonds of the United States, or of this State, or of any county or municipality of this State, or in notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator, or in bonds or first liens upon unencumbered real estate in this State or in any other State in which such company may previously have been duly licensed to conduct an insurance business. In either instance such real estate shall be worth at least twice the amount loaned thereon. The value of such real estate shall be determined by a sworn valuation made by two freeholders of the county where the real estate is located. If buildings are considered as part of the value of such real estate they must be insured for the benefit of the mortgagee. Upon such company furnishing evidence satisfactory to the Commissioner that the capital stock as herein prescribed has been all subscribed and paid up in cash in good faith, and that such capital stock has been invested as herein prescribed, and upon the deposit of the sum of Fifty Thousand Dollars (\$50,000) of such securities or in cash with the State Treasurer, then said Commissioner shall issue to said company a certificate authorizing it to do business. No part of the capital paid in shall be loaned to any officer of said company. In the event any such company shall be required by the law of any other State, Country, or province as a requirement prior to doing an insurance business therein to deposit with the duly appointed officer of such other State, Country, or province or with the State Treasurer of this State, any securities or cash in excess of the said deposit of Fifty Thousand Dollars (\$50,000) hereinbefore mentioned, such company, at its discretion, may deposit with the State Treasurer securities of the character authorized by this law, or cash sufficient to enable it to meet such requirements. The State Treasurer is hereby authorized and directed to receive such deposit and to hold it exclusively for the protection of all policyholders of the company. Any deposits so made to meet the requirements of any other State, Country, or province shall not be withdrawn by the company except upon filing with the Commissioner evidence satisfactory to him

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that the company has withdrawn from business, and has no unsecured liabilities outstanding in any such other State, Country, or province by which such additional deposit was required, and upon the filing of such evidence the company may withdraw such additional deposit at any time provided that such restrictions shall not apply to mortgages insured by the Federal Housing Administrator. [As amended Acts 1935, 44th Leg., p. 31, ch. 11, § 1; Acts 1937, 45th Leg., H.B. # 494, § 1.]

Amendment of 1937, effective April 26, 1937, declared an emergency making the Act effective on and after its passage.

Section 2 of the amendatory Acts of 1937

Art. 5006. Investment of funds

No company organized under the provisions of this Chapter shall invest its funds over and above its paid-up capital stock in any other manner than as follows:

(a) In bonds of the United States or of any of the States of the United States which are at or above par.

(b) In bonds or first liens on unencumbered real estate in this State or in any other State, country, or province in which such company may be duly licensed to conduct an insurance business, and providing in each instance such real estate shall be worth at least twice the amount loaned thereon. The value of such real estate shall be determined by a valuation made under oath by two freeholders of the county where the real estate is located, and if buildings are considered as a part of the value of such real estate they must be insured for the benefit of the mortgagees.

(c) In bonds or other interest-bearing evidence of indebtedness of any county, incorporated city, town, or school or sanitary or navigation district, such navigation district to contain a population of not less than three hundred and fifty-nine thousand (359,000) according to the last preceding Federal Census, in this or any other State in which said company may be duly licensed to conduct an insurance business, if such evidences of indebtedness are issued by authority of law and if interest upon them has never been defaulted.

(d) In the stocks or bonds or other evidences of indebtedness of any solvent dividend-paying corporation incorporated under the laws of this State, or of the United States, or of any State, country, or province in which such company may be duly licensed to conduct an insurance business.

(e) In loans upon the pledge of any mortgage, stock, or bonds, or other evidence of indebtedness, acceptable as investments under the terms of this law if the current value of such mortgage, stock, bonds, or other evidence of indebtedness is at least twenty-five (25) per cent more than the amount loaned thereon.

(f) That the restrictions contained in Section (b) hereof that such real estate shall be worth at least twice the amount loaned thereon, and that the value of such real estate shall be determined by a valuation made under oath by two freeholders of the county where the real estate is located and if buildings are considered as a part of the value of such real estate they must be insured for the benefit of the mortgagee, shall not apply to loans secured by real estate in Texas which are insured under the provisions of Title 2, of the National Housing Act, enacted by Congress of the United States, and approved by the President on June 27, 1934.

(g) In interest-bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session. [As amended Acts 1933, 43rd Leg.,

p. 851, ch. 242; Acts 1935, 44th Leg., p. 22, ch. 7, § 1; Acts 1937, 45th Leg., H.B. # 214, § 1.]

¹ 12 U.S.C.A. §§ 1707-1715.

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment. Section 2 of the amendatory Act of 1937 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 82—JUVENILES

Art.

5142b. Juvenile officers in counties of 320,000 and not less than 220,000 [New].

Art.

5143a. Juvenile Training Schools for delinquent children—"Delinquent Child" [New].

Art. 5125. [Repealed by Acts 1937, 45th Leg., H.B. #1073, § 6]

Effective June 9, 1937.

Prior to its repeal this article was amended by Acts 1927, 40th Leg., p. 316, ch. 214.

Art. 5132. [Repealed by Acts 1937, 45th Leg., H.B. #1073, § 6]

Effective June 9, 1937.

Art. 5135. [Repealed by Acts 1937, 45th Leg., H.B. #1073, § 6]

Effective June 9, 1937.

Art. 5142. Qualifications, duties, appointment, salaries and removal

There may be appointed, in the manner hereinafter provided, discreet persons of good moral character to serve as juvenile officers for periods not to exceed two (2) years from date of appointment.

Such officers shall have authority and it shall be their duty to make investigations of all cases referred to them as such by such Board; to be present in Court and to represent the interest of the juvenile when the case is heard, and to furnish to the Court and such Board any information and assistance as such Board may require, and to take charge of any child before and after the trial and to perform such other services for the child as may be required by the Court or said Board, and such juvenile officers shall be vested with all the power and authority of police officers or sheriffs incident to their offices.

The Clerk of the Court shall, when practicable, notify such juvenile officer when any juvenile is to be brought before the Court. It shall be the duty of such juvenile officer to make investigation of any such case, to be present in Court to represent the interest of the juvenile when the case is tried; to furnish to such Court such information and assistance as the Court may require and to take charge of any juvenile before and after the trial as the Court may direct. In counties having a population of less than seventy-five thousand (75,000), one juvenile officer may be appointed by the Commissioners Court, when in their opinion such officer is needed, who shall receive a compensation not to exceed One Hundred and Twenty-five Dollars (\$125) per month. Provided that in counties having a population of not less than thirty-five thousand (35,000), and not more than one hundred thousand (100,000), and containing a city of more than twenty-nine thousand (29,000) population, one juvenile officer may be appointed by the County Judge with the approval of the Commissioners Court, when in their opinion the services of such officers are needed whose

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salary shall not exceed Two Hundred Dollars (\$200) per month and expenses not to exceed Two Hundred Dollars (\$200) per year.

Provided that in counties having a population of one hundred thousand (100,000) and less than one hundred and fifty thousand (150,000), the County Judge may appoint a juvenile officer, subject to the approval of the County Juvenile Board for a period not to exceed two (2) years from date of appointment at a salary not to exceed Two Hundred and Fifty Dollars (\$250) per month, and expenses not to exceed Two Hundred Dollars (\$200) per year. Such juvenile officers may select assistant juvenile officers, subject to the approval of the County Judge and the County Juvenile Board, the number not to exceed one assistant juvenile officer to each twenty-five thousand (25,000) population. The salaries of such assistant juvenile officers shall be the same as that fixed by the General Law, in Article 3902, Revised Civil Statutes of Texas of 1925, for assistants to other county officials. Such assistant juvenile officers may be allowed expenses, each, not to exceed Two Hundred Dollars (\$200) per year.

Provided that in counties having a population of one hundred and fifty thousand (150,000) or more, and containing a city of one hundred thousand (100,000) or more, the County Judge may appoint a juvenile officer, subject to the approval of the County Juvenile Board, to serve for a period not to exceed two (2) years from the date of appointment, and whose extra duties shall be to make investigations for the Commissioners Court on applications for charity, or admittance into detention homes or orphan homes created by such counties. The salary of such juvenile officer shall not exceed Three Hundred Dollars (\$300) per month, his allowance for expenses not to exceed Two Hundred Dollars (\$200) a year. Such juvenile officer may select assistant juvenile officers, subject to the approval of the County Judge and the County Juvenile Board, the number of such assistant juvenile officers not to exceed one assistant to each twenty-five thousand (25,000) population. The salaries of such assistant juvenile officers shall be the same as that fixed by the General Law in Article 3902, of the Revised Civil Statutes of Texas, 1925, for assistants to other county officials. Such assistant juvenile officers may be allowed expenses, not to exceed Two Hundred Dollars (\$200) per year each.

In the appointment of all juvenile officers, the County Judge and the County Juvenile Board may select for such office any school attendance officer or officers of the county, or of school districts in the county, that may be authorized by law, and the salary and expense of such joint juvenile officer or officers and attendance officers shall be paid jointly by the county and school authorities upon any basis of division they may agree upon.

Salaries of paid juvenile officers and their assistants shall be fixed by the Commissioners Court, not to exceed the sum herein mentioned, and any bill for the expenses not exceeding the sums herein provided for, shall be certified by the County Judge as being necessary in the performance of the duties of a juvenile officer. The Commissioners Court of the county shall provide the necessary funds for the payment of salaries and expenses of the juvenile officers provided for in this Act. The appointment of said juvenile officers shall be filed in the office of the Clerk of the County Court. Juvenile officers shall take oath to perform their duties and file such oath in the office of the County Clerk. As a basis for reckoning the population of any county the preceding Federal Census shall be used.

Provided that any juvenile officer appointed under the provisions of this Act may be removed from office by the power appointing him, at any

time. [As amended Acts 1927, 40th Leg., p. 335, ch. 228; Acts 1937, 45th Leg., H.B. # 146, § 1.]

Amendment of 1937, effective May 5, 1937, declared an emergency making the Act effective on and after its passage. It does not show the Governor's approval.

Section 2 of the amendatory Act of 1937

Art. 5142b. Juvenile officers in counties of 320,000 and not less than 220,000

Section 1. That the provisions of this Act shall apply to and affect such counties only in the State of Texas as have, according to the last preceding Federal Census, a population of not more than three hundred and twenty thousand (320,000) inhabitants, and not less than two hundred and twenty thousand (220,000) inhabitants, according to the last preceding or any future Federal Census.

Juvenile board

Sec. 2. The Juvenile Board of such counties shall be composed of the Judges of the several District and Criminal District Courts, thereof, together with the County Judge thereof.

Chief probation officer and assistants; appointment

Sec. 3. There shall be one Chief Probation Officer, and such number of Assistants not exceeding eight as shall be authorized by the Juvenile Board. Said Chief Probation Officer and Assistants to be appointed by the County Judge, and confirmed by the Juvenile Board, and such power of appointment and confirmation of such officers as conferred by this Act shall not be effective until the expiration of the terms of offices of the present incumbents of such offices.

Terms of office

Sec. 4. The term of office of Chief Probation Officer and Assistant Probation Officers shall be for a period of two years; provided, however, that the Juvenile Board may at any time, for good cause, suspend or remove any Juvenile Officer, whether Chief or Assistant.

Compensation

Sec. 5. The compensation of all Probation Officers shall be fixed by the County Commissioners' Court, which shall not exceed Three Hundred (\$300.00) Dollars per month for the Chief Probation Officer, and not to exceed One Hundred and Seventy-five (\$175.00) Dollars per month for the First Assistant Probation Officer, and not to exceed One Hundred and Fifty (\$150.00) Dollars per month for all other assistants.

Juvenile Board; powers

Sec. 6. The Juvenile Board shall have direction and control over all Juvenile Officers and may make rules and regulations relating thereto.

Supervision of institutions by Juvenile Board; superintendents

Sec. 7. That all homes, schools, farms and any and all other institutions or places maintained and used chiefly by the county for the training, education, support or correction of juveniles shall be under the control and supervision of the Juvenile Board, and the Superintendent of each such institutions shall be appointed by the County Judge for a term of two years and each such appointment confirmed by the Juvenile Board. The salaries of all of the Superintendents shall be fixed by the County Commissioners' Court.

Records and visitation by Probation Officer

Sec. 8. It shall be the duty of the Probation Officer to keep a record which will, at all times, show the names of all dependent or delinquent juveniles within their county, and the names and addresses of the person having custody of any such juveniles; and visitations by such officers shall be made at such reasonable times as may be directed by the Juvenile Board, and written report shall be made to the Juvenile Board showing such facts relating to the environment, treatment, education and welfare of such minors as shall be directed by the Juvenile Board.

Juvenile Court to direct change of custody of juveniles

Sec. 9. It shall be unlawful for any person or institution having the lawful custody of any such juveniles to deliver such juveniles to the custody of another person without an order of court of competent jurisdiction in said county sitting as a Juvenile Court authorizing same, and a copy of such order shall be transmitted to the Juvenile Officers of such county.

Visitations by Juvenile Board; orders and regulations

Sec. 10. It shall be the duty of the members of the Juvenile Board of said county to make visitations, at reasonable intervals, to the institutions in said county in which dependent or delinquent juveniles may be kept, maintained or educated; and a majority of said Juvenile Board may adopt any order or regulation pertaining to the welfare of such juveniles which may be found necessary or for the welfare of such juveniles, and it shall be the duty of all persons having such juveniles in charge to comply with such order or regulation. Any such order or regulation shall be entered of record by the Chief Probation Officer in a book kept for such purpose, and shall be open for public inspection, and copy of any such order or regulation certified by such Probation Officer shall be delivered to the Superintendent, or person in charge, or control of any such institution; and said Board may by order or regulation require of the Superintendent, or person in charge, of such juveniles in said county reports giving said Board such information relating to such juveniles or such institutions as may be required by such Juvenile Board.

Suspension of assistants by Chief Probation Officer

Sec. 11. The Chief Probation Officer may at any time, with the approval of the Juvenile Board, for good cause shown, suspend, or entirely terminate the employment and service of any assistant after such assistant has been duly notified and afforded an opportunity to be heard by said Juvenile Board.

Bonds of officers

Sec. 12. The Juvenile Board shall have authority to require and approve a good and sufficient surety or personal bond for the faithful performance of duty of any Juvenile Officer or Superintendent of any of the institutions enumerated in this Act, in such sum as may be determined by said Board.

Investigations and reports by Probation Officer; record of receipts and expenditures

Sec. 13. The Juvenile Board, or any member thereof, may at any time require any Probation Officer to make investigation and report the facts relating to the welfare of any minor, or any child abandonment or desertion cases or proceedings, and may require any such officer to receive and disburse under orders of the Board for the benefit of any such minor

any sums of money required to be paid into Court for the maintenance of such minor; and such officer shall enter all such receipts and disbursements in a well-bound book kept for such purpose in the Probation Office subject to public inspection, showing all such receipts and disbursements, and the same shall be audited by the County Auditor; and the bond required to be executed under the provisions of this Act shall be liable for the faithful performance of all such duties.

Assistant district attorney to represent Juvenile Board and Probation Officers

Sec. 14. The District Attorney and the Criminal District Attorney of all such counties coming under the provisions of this law, is hereby authorized and directed, to assign an Assistant District Attorney in his office for the special duty of representing the Juvenile Board and the Probation Officers in safeguarding and protecting the rights relating to the welfare of any minor or juvenile in child abandonment and desertion cases or proceedings.

Compensation of Juvenile Board members

Sec. 15. The members composing said Juvenile Board in such counties, on account of the additional duties hereby imposed on them, are each hereby allowed an additional compensation of seventy-five (\$75.00) Dollars per month to be paid by the Commissioners' Court in such counties, and the same to be in addition to all other compensation now allowed by law to such officers.

Partial invalidity clause

Sec. 16. It is further enacted that if any section, clause or part of this bill is found to be unconstitutional, or invalid, it is hereby declared to be the purpose and intention of the Legislature that such fact shall not, in any manner invalidate or impair the remaining portions of this Act.

It is further provided that all laws and parts of laws in conflict with the provisions of this bill be and the same are hereby repealed to the extent of such conflict only. [Acts 1937, 45th Leg., S.B. # 186.]

Effective March 16, 1937.

Section 17 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for a Juvenile Board and the appointment of a Chief Probation Officer and Assistant Probation Officers and Superintendents of certain institutions in counties having a population of not more than three hundred and twenty thousand (320,000) inhabitants, and not less than two hundred and twenty thousand (220,000) inhabitants, according to the last preceding or any future Federal Census; and providing that the appointment and election of the Chief Probation Officer and Assistants and Superintendents of institutions as herein provided for in such counties shall be appointed by the County Judge, and confirmed by such Juvenile Board; provided, however, that such power of appointment and election of such officers, as conferred by this Act, shall not be effective until the expiration of the terms of office of the present incumbents of such offices; and providing for the bonding of such officers; and providing that the Juvenile Board in any such counties shall have the power to suspend or

remove any such Juvenile Officers for good cause; fixing the term of service and compensation of all such officers; giving the Juvenile Board in such counties the direction and control over all such officers and the right to make rules and regulations relating thereto; providing that such Probation Officer shall keep a record showing the names of all dependent or delinquent juveniles within such county and directing that visitation shall be made by such officers to such juveniles, and that certain facts relative to their welfare be ascertained and reported to the Juvenile Board, all as may be ordered by said Board; providing that it shall be unlawful for any person or institution having lawful custody of any such juveniles in such county to deliver such dependent or delinquent juveniles to any other person without first procuring an order of a juvenile court in such county authorizing the same; providing that it shall be the duty of the members composing the Juvenile Board to make visitations at reasonable intervals to any institutions in such counties where such juveniles are kept, educated or maintained, and giving the Juvenile Board authority to make any order or regulation which may be found necessary or for the welfare of such juveniles; making it the

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duty of the Superintendent or person in charge to comply with the same; providing that any such order or regulation shall be recorded by the Probation Officers in a book to be kept for such purpose to be open to the inspection of the public, and providing for the manner of certifying such orders; providing for an additional compensation for each member composing the said Juvenile Board in addition to all compensation now allowed by law, such compensation to be paid by such county; and providing that it shall be the duty of any such juvenile officer when ordered by a District Court, or Criminal District Court, or the Judge of any such Court in such county, or the County Judge of such county to make investigation and report the facts in any case or proceeding where the welfare of a minor is involved; making it the duty of such officer when so directed by such court or the Judge there-

of to receive, collect and disburse any sums of money for the maintenance of minors, to keep a record open to the public of such transactions, and that the County Auditor shall audit such accounts; providing that if any section or part of this bill is found to be unconstitutional or invalid that it is declared to be the purpose and intention of the Legislature that the other portions shall nevertheless have been passed; and for the repeal of all laws and parts of laws in conflict herewith, but to that extent only and providing for an emergency, and that this Act become effective from and after the date of its passage. It is further provided that it is not the purpose or intention of the Legislature to create any new office by the provisions of this Act, but to impose additional duties on the officers composing such Juvenile Board, and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 186.]

Art. 5143a. Juvenile Training Schools for delinquent children—"Delinquent Child"

Section 1. The term "delinquent child" shall include any boy between the ages of ten (10) and seventeen (17) years and/or any girl between the ages of ten (10) and eighteen (18) years who violates any penal law of this State, or who is incorrigible, or who knowingly associates with thieves, vicious or immoral persons, or who knowingly visits a house of ill repute, or who is guilty of immoral conduct in a public place, or who knowingly patronizes or visits any place where a gambling device is being operated, or who habitually wanders about the streets in the nighttime without being on any business or occupation or who habitually wanders about any railroad yard or tracks, or habitually jumps on and off of moving trains or who enters any car or engine without lawful authority. Any such child committing any of the acts herein mentioned shall be deemed a delinquent child, and shall be proceeded against as such in the manner hereinafter provided, and as otherwise so provided by the law, so as to effect the object of this law.

Who received at said schools

Sec. 2. Any male person between the ages of ten (10) and seventeen (17) years who shall be lawfully committed to the State Juvenile Training School as a delinquent child, and not possessing any of the disqualifications hereinafter mentioned, shall be received as an inmate of said training school.

Girls' Training School

Sec. 3. The Girls' Training School for delinquent girls shall be under the control and management of the State Board of Control which shall provide wholesome and proper quarters and exercise and diversion, and shall make provisions for training in all of the useful arts and sciences to which women are adapted, to prepare them for future womanhood and independence, and shall provide instruction in nursing, sanitation and hygiene.

Juveniles disqualified

Sec. 4. Whenever any girl between the ages of ten (10) and eighteen (18) years or boy between the ages of ten (10) and seventeen (17) years shall be tried or brought before any juvenile court upon indict-

ment or information or before the District Court on petition of any person in this State or the Humane Society or any institution of a similar purpose or character, charged with being a delinquent child as this term is herein defined, the Court may, if in the opinion of the judge, the Juvenile Training School is the proper place for him, if a boy, or the Girls' Training School is the proper place for her, if a girl, commit such person to the Juvenile Training School for boys or the Girls' Training School for girls during the minority of said person. No person shall be committed to either school who is feeble-minded, epileptic or insane, but if so committed the State Board of Control shall have the authority to immediately transfer to the proper eleemosynary institution. Any person committed to either school who is afflicted with a venereal, tubercular or other communicable disease shall be assigned to a distinct and separate building of the institution and shall not be allowed to associate with the other wards until cured of said disease or diseases. No person shall be admitted to either of said schools until he or she has been examined by the school physician and such physician has issued a certificate showing said person's exact state or condition in reference to said qualifications hereinabove enumerated.

Unruly child excluded—transfers

Sec. 5. All juvenile courts shall give preference to those children of tender age, and said courts shall not commit to said Home for Dependent and Neglected Children any children under the age of sixteen (16) years who are known to be habitual violators of the laws of this State or who have been inmates of any State juvenile correctional school, provided however, that the State Board of Control is hereby authorized to transfer to this Home from any State juvenile correctional school any child of tender years whose record is satisfactory, upon the recommendation of the superintendent of such correctional school or any interested citizen. If the conduct of any child in said Home becomes sufficiently uncontrollable as to impair the better interests of other children in the Home, the Board, upon application of the superintendent, shall have the authority to transfer such child to any State juvenile correctional school admitting juveniles of similar age and sex, and it shall be the duty of the respective superintendents to transfer, transport and admit such child. Said Board may transfer children from said Juvenile Training Schools or said Home to the State Orphans' Home and from said Orphans' Home to said Training Schools. [Acts 1937, 45th Leg., H.B. # 1073.]

Effective June 9, 1937.

Section 6 of Acts 1937, 45th Leg., H.B. # 1073, repeals Articles 3258, 5125, 5132, and 5135 of the Revised Civil Statutes of 1925, and Article 1083 of the Code of Criminal Procedure. Section 7 of the Act of 1937 reads as follows: "In the event any sentence, line, portion or paragraph of this Act shall be held to be invalid or declared to be unconstitutional such shall not affect the valid portions hereof, and it shall be and is the intent of the Legislature to enact the valid portions thereof, irrespective of any invalid portions."

Section 8 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining the term "delinquent child" and providing that such shall be

proceeded against as such in the manner provided by law so as to effect the object of this law, and providing for the bringing of such before a juvenile court upon indictment or information, or before the district court on the petition of any person, or the Humane Society, or an institution of similar purposes or character, and for the commitment of such to the State Juvenile Training School if a boy, and to the Girls' Training School, if a girl, during minority; providing that no feeble-minded, epileptic or insane child shall be committed to either and if so committed may be transferred to the proper institution, providing for the isolation of any child afflicted with venereal, tubercular or other communicable disease until cured of said disease or diseases; providing for the examination upon admission, and the issuance of a certificate

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

showing the exact condition or state in reference to the qualifications above enumerated of each one to be admitted; providing for the exclusion of unruly children from the Home for Dependent and Neglected Children and the transfer from the Training Schools to the Home for Dependent and Neglected Children and the State Orphans Home and from the Home for Dependent and Neglected Children and the Orphans Home to the Training Schools and from the Home for Dependent and Neglected Children to the State Orphans

Home; repealing Articles 3258, 5125, 5132 and 5135 of the Revised Civil Statutes of 1925, and Article 1083 of the Code of Criminal Procedure; providing that in the event any part or portion of this Act shall be declared invalid or unconstitutional such declaration shall not affect the remaining portion thereof and the valid portions thereof shall be declared the Act of the Legislature; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1073.]

TITLE 83—LABOR

Chap.

- 14. Unemployment Compensation [New].
- 15. Inspection of Steam Boilers [New].

CHAPTER THREE—PAYMENT OF WAGES

Art.

- 5159b. Coupons, chips, scrip, store orders, or other evidence of indebtedness to laborers to be redeemable on demand in money [New].

Art. 5159b: Coupons, chips, scrip, store orders, or other evidence of indebtedness to laborers to be redeemable on demand in money

Section 1. That all persons, firms, partnerships, or corporations using coupons, chips, scrip, punchouts, store orders, or other evidence of indebtedness to pay their or its laborers and employes, for labor or otherwise, shall, if demanded, redeem the same in the hands of such laborer, employe, or bona fide holder in good and lawful money of the United States; provided, the same is presented and redemption demanded of such person, firm, partnership, or corporation using same as aforesaid, at a regular payday, such redemption to be at the face value of said scrip, chips, punchouts, coupons, store order, or other evidence of indebtedness; provided further, said face value shall be in cash the same as its purchasing power in goods, wares, and merchandise at the commissary store or other repository of such persons, firms, partnerships, or corporations aforesaid.

Actions to redeem; penalty

Sec. 2. Any employe, laborer, or bona fide holder referred to in Section 1 of this Act, upon presentation and demand for redemption of such scrip, chips, coupon, punchout, store order, or other evidence of indebtedness aforesaid, and upon refusal of such person, firm, partnership, or corporation to redeem the same in good and lawful money of the United States the owner of any such evidence of indebtedness may maintain in his, her, or their own name an action before any Court of competent jurisdiction against such person, firm, partnership, or corporation, using same as aforesaid for the recovery of the value of such coupon, scrip, chips, punchout, store order, or other evidence of indebtedness, as defined in Section 1 of this Act. If the plaintiff shall recover judgment in such case, it shall include a penalty of twenty-five (25) per cent of the amount due and a reasonable fee for the plaintiff's attorney for his services in the

suit, all of which, as well as the costs, shall be taxed against the defendant. [Acts 1937, 45th Leg., H.B. # 19.]

Effective May 15, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that all persons, firms, partnerships, or corporations using coupons, chips, scrip, punchouts, store orders, or other evidence of indebtedness to pay their or its laborers and employes, for labor or otherwise, shall, if demanded, redeem the same in the hands of such laborer, employe, or bona fide holder in good and lawful money of the United States; provided, the same is presented

and redemption demanded of such person, firm, partnership, or corporation using same as aforesaid, at a regular payday, such redemption to be at the face value of said scrip, chips, punchouts, coupons, store orders, or other evidence of indebtedness; provided further, said face value shall be in cash the same as its purchasing power in goods, wares, and merchandise at the commissary store or other repository of such persons, firms, partnerships, or corporations aforesaid; and providing penalties for failure to redeem, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #19.]

CHAPTER THIRTEEN—EMPLOYMENT AGENTS

Art. 5215. Fees

No fee nor other charge shall be made by any employment agent or agency for registration of applicants for employment, and where a fee is charged for obtaining employment, such fee shall not be collected nor received until the applicant has obtained and accepted employment, and all such fees or charges shall be agreed to and stipulated in the application at the time such employment agent registers such applicant. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #40, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 5216. Receipt forms prescribed

A receipt shall be given by the employment agent to all applicants for all fees collected from such applicants. The form of such receipt shall be prescribed by the Commissioner of Labor and shall contain the name of the applicant, the amount of the fee paid, the date, the character of the work or the position secured, the name of the employer, together with his post-office address and the location of the work the applicant is to perform. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #40, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION [New.]

Art.

- 5221b—1. Benefits; amount and payment; duration; determination of full time weekly wage [New].
- 5221b—2. Benefit eligibility conditions [New].
- 5221b—3. Disqualification for benefits [New].
- 5221b—4. Claims for benefits; review of decisions; appeals; procedure [New].
- 5221b—5. Contributions [New].

Art.

- 5221b—6. Employing units subject to act as employers [New].
- 5221b—7. Unemployment compensation fund [New].
- 5221b—8. Unemployment Compensation Commission [New].
- 5221b—9. Administration [New].
- 5221b—10. Employment service [New].
- 5221b—11. Unemployment Compensation Administration Fund [New].
- 5221b—12. Collection of contributions [New].

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art.	Art.
5221b—13. Protection of rights and benefits [New].	5221b—19. Repeal or amendment [New].
5221b—14. Penalties [New].	5221b—20. Partial invalidity; separability of provisions [New].
5221b—15. Representation in court [New].	5221b—21. Powers of Commission [New].
5221b—15a. Reciprocal arrangements [New].	5221b—22. Termination of act [New].
5221b—16. Nonliability of state [New].	5221b—23. Relief investigators in counties of 48,900 to 48,975 and 10,370 to 10,380 [New].
5221b—17. Definitions [New].	
5221b—18. Political activities [New].	

Art. 5221b—1. Benefits; amount and payment; duration; determination of full time weekly wage

(a) **Payment of Benefits:** Twenty-four (24) months after the date when contributions first accrue under this Act,¹ benefits shall become payable from the fund. All benefits shall be paid through employment offices, in accordance with such regulations as the Commission may prescribe. All benefits shall be computed to the nearest multiple of five (5) cents.

(b) **Weekly Benefit Amount for Total Unemployment:** Each eligible individual who is totally unemployed in any week shall be paid with respect to such week, benefits at the rate of fifty (50) per centum of his full-time weekly wages but not more than Fifteen Dollars (\$15) per week, nor less than either Five Dollars (\$5) or three-fourths of his full-time weekly wage, whichever is the lesser.

(c) **Weekly Benefit For Partial Unemployment:** Each eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be the weekly benefit amount plus Two Dollars (\$2) less the wages received for such week. If such partial benefit for any week equals less than Two Dollars (\$2), it shall not be payable unless and until the accumulated total of such partial benefits with respect to weeks occurring within the thirteen (13) preceding weeks equals Two Dollars (\$2) or more.

(d) **Determination of Full-Time Weekly Wage:**

(1) The full-time weekly wage of any individual means the weekly wages that such individual would receive if he were employed at the most recent wage rate earned by him for employment by an employer during the period prescribed pursuant to paragraph (3) of this Subsection, and for the customary scheduled full-time weekly hours prevailing for his occupation in the enterprise in which he last earned wages for employment by an employer during the same period.

(2) If the Commission finds that the full-time weekly wage, as above defined, would be unreasonable or arbitrary or not readily determinable with respect to any individual, the full-time weekly wage of such individual shall be deemed to be one-thirteenth of his total wages for employment by employers during that quarter in which such total wages were highest during the period prescribed pursuant to paragraph (3) of this Subsection.

(3) The full-time weekly wage of any individual shall be determined and redetermined at such reasonable times as the Commission may find necessary to administer this Act and may by regulation prescribe. The period hereinabove referred to shall consist of the next to the last completed calendar quarter immediately preceding the date with respect to which an individual's full-time weekly wage is determined, and such of the seven (7) immediately preceding consecutive calendar quarters as the Commission may by regulation prescribe.

(e) **Duration of Benefits:** The Commission shall compute wage credits for each individual by crediting him with the wages earned by him

for employment by employers during each quarter, or Three Hundred and Ninety Dollars (\$390), whichever is the lesser. Benefits paid to any eligible individual shall be charged, in the same chronological order as such wages were earned, against one-sixth of his wage credits which are based upon wages earned during his base period and which have not been previously charged hereunder. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of; (1) Sixteen (16) times his weekly benefit amount; and (2) one-sixth of such uncharged wage credits with respect to his base period. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 3, as amended Acts 1937, 45th Leg., H.B. #586, § 1.]

¹ Articles 5221b-1 to 5221b-22.

Articles 5221b—1 to 5221b—22 effective Oct. 27, 1936.

Amendment of 1937, effective March 24, 1937.

Sections 1 and 2 of Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, contained a recital of the economic factors giving rise to the need for an unemployment compensation system and declared the purpose of the Act.

Section 25 of Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, declared an emergency and provided that the Act should take effect and be in force from and after its passage.

Section 8 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act creating and providing for an Unemployment Compensation System for the State of Texas; imposing a tax on employers of eight (8) or more persons; making certain exemptions; providing for the enforcement and administration of this Act, and prescribing penalties and priorities in aid thereof; authorizing and providing for certain expenditures and disbursements; creating and providing for the Unemployment Compensation Commission; prescribing its powers and duties; providing for a State Employment Service; defining certain terms; providing that the Act shall be severable; providing for the termination of the Act under certain circumstances, and declaring an emergency. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482.]

Art. 5221b—2. Benefit eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commission finds that:

(a) He has registered for work at and thereafter has continued to report to an employment office in accordance with such regulations as the Commission may prescribe.

(b) He has made a claim for benefits in accordance with the provisions of Section 6(a) of this Act.¹

(c) He is able to work, and is available for work.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two (2) weeks (and for the purposes of this Subsection, two (2) weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment). Such weeks of total or partial unemployment or both need not be consecutive. No week shall be counted as a week of total unemployment for the purposes of this Subsection:

(1) Unless it occurs within the thirteen (13) consecutive weeks preceding the week for which he claims benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; and provided further that no individual shall be required to accumulate more than five (5) waiting period weeks during any sixty-five (65) consecutive week period;

(2) If benefits have been paid with respect thereto;

(3) Unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of Subsections (b) and (c) of this Section;

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

(4) Unless it occurs after benefits first could become payable to any individual under this Act;²

(e) He has within the first three out of the last four completed calendar quarters immediately preceding the first day of his benefit year, earned wages for employment by employers equal to not less than sixteen (16) times his weekly benefit amount. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 4, as amended Acts 1937, 45th Leg., H.B. # 586, § 2.]

¹ Article 5521b-4.

² Articles 5221b-1 to 5221b-22.

Amendment of 1937, effective March 24, 1937.

Art. 5221b—3. Disqualification for benefits

An individual shall be disqualified for benefits;

(a) For the week in which he has left work voluntarily without good cause, if so found by the Commission, and for the three weeks which immediately follow such week (in addition to the waiting period), as determined by the Commission according to the circumstances in each case.

(b) For the week in which he has been discharged for misconduct connected with his work, if so found by the Commission, and for not less than the one (1) nor more than the nine (9) weeks which immediately follow such week (in addition to the waiting period), as determined by the Commission in each case according to the seriousness of the misconduct.

(c) If the Commission finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall continue for the week in which such failure occurred and for not less than the one (1) nor more than the five (5) weeks which immediately follow such week (in addition to the waiting period) as determined by the Commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which the Commission finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that;

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work;

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any week with respect to which he is receiving or has received remuneration in the form of;

(1) Wages in lieu of notice;

(2) Compensation for temporary partial disability, temporary total disability or total and permanent disability under the Workmen's Compensation Law of any State or under a similar law of the United States;

(3) Old Age Benefits under Title II of the Social Security Act, as amended, or similar payments under any Act of Congress;¹ provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 5.]

¹ 42 U.S.C.A. §§ 401-410.

Art. 5221b—4. Claims for benefits; review of decisions; appeals; procedure

(a) Filing: Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service, and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the Commission to each employer without cost to him.

(b) Initial Determination: A representative designated by the Commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to an appeal tribunal or to the Commission, which shall make its determinations with respect thereto in accordance with the procedure described in subsection (c) of this section, except that in any case in which the payment or denial of benefits will be determined by the provisions of section 5 (d) of this Act,¹ the deputy shall promptly transmit his full finding of fact with respect to that subsection to the Commission, which, on the basis of the evidence submitted and such additional evidence as it may require, shall affirm, modify, or set aside such findings of fact and transmit to the deputy a decision upon the issues involved under that subsection. The deputy shall promptly notify the claimant and any other interested party of the decision and the reasons therefor. Unless the claimant or any such interested party, within ten (10) calendar days after the delivery of such notification, or within twelve (12) calendar days after such notification was mailed to his last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period prior to the final determination of the Commission, shall be paid only after such determination; provided, that if an appeal tribunal affirms a decision of a dep-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

uty, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

(c) Appeals: Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the Commission, unless within ten (10) days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

(d) Appeal Tribunals: To hear and decide disputed claims, the Commission, if it is necessary to insure prompt disposal of cases on appeal, shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of three (3) members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of labor; each of the latter two members shall serve at the pleasure of the Commission and be paid a fee of not more than Ten (\$10.00) Dollars per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the Commission in any case in which he is an interested party. The Commission may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The Chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

(e) Commission Review: The Commission may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The Commission shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the deputy whose decision has been over ruled or modified by an appeal tribunal. The Commission may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the Commission shall be heard by a quorum thereof in accordance with the requirements in subsection (c) of this section. The Commission shall promptly notify the interested parties of its findings and decision, and shall send a certified copy of its order to all interested parties.

(f) Procedure: The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the Commission for determining the rights of the parties. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness Fees: Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(h) Appeal to Courts: Any decision of the Commission in the absence of an appeal therefrom as herein provided shall become final ten

(10) days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the Commission and has been designated and appointed for that purpose by the Attorney General of Texas.

(i) Court Review: Within ten (10) days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in any court of competent jurisdiction in the county of claimants' residence against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. Such trial shall be de novo. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the Commission or upon such person as the Commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the Commission shall forthwith mail one such copy to each such defendant. Such action shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law of this State.² An appeal may be taken from the decision of the trial court, in the same manner, as is provided in other civil cases. It shall not be necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 6.]

¹ Article 5221b—3(d).

² Articles 8306 et seq.

Art. 5221b—5. Contributions

(a) Payment: (1) On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act,¹ with respect to wages payable for employment occurring during such calendar year. Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such regulation as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) Rate of Contributions: Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) Nine-tenths of one per centum with respect to employment during the calendar year 1936;

(2) One and eight-tenths (1-8/10) per centum with respect to employment during the calendar year 1937;

(3) Two and seven-tenths (2-7/10) per centum with respect to employment during the calendar years 1938, 1939, 1940;

(4) With respect to employment after December 31, 1940, the percentage determined pursuant to Subsection (c) of this Section.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) Future Rates Based on Benefit Experience:

(1) The Commission shall maintain a separate account for each employer, and shall credit his account with all the contributions paid on his own behalf for the calendar year 1936 and with all the contributions paid on his own behalf for each calendar year thereafter; but nothing in this Act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his behalf or on behalf of such individuals. Benefit paid to an eligible individual shall be charged against the account of his most recent employers, against whose account the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer shall not exceed one-sixth of the wages payable to such individual by each such employer for employment which occurs on and after the first day of such individual's base period, but not more than sixty-five Dollars (\$65) per completed calendar quarter or portion thereof which occurs within such base period; but nothing in this Section shall be construed to limit benefits payable pursuant to Section 3 of this Act.² The Commission shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment at the same time.

(2) The Commission may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) The Commission shall, for the year 1941 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions credited to their account on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The Commission shall determine the contribution rate of each employer in accordance with the following requirements:

(A) Each employer's rate shall be two and seven-tenths (2-7/10) per centum, except as otherwise provided in the following provisions. No employer's rate shall be less than two and seven-tenths (2-7/10) per centum unless and until there shall have been three (3) calendar years throughout which any individual in his employ could have received benefits if eligible.

(B) Each employer's rate for the twelve (12) months commencing January 1st of any calendar year subsequent to 1940 shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions paid on his own behalf and credited to his account for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) One and eight-tenths (1-8/10) per centum, if such excess equals or exceeds seven and one-half (7-1/2) but is less than ten (10) per centum of his average annual payroll;

(2) Nine-tenths of one per centum, if such excess equals or exceeds ten (10) per centum of his average annual payroll. If the total of his contributions, paid on his own behalf and credited to his account for all past periods or for the past sixty (60) consecutive calendar months, whichever period is more advantageous to such employer for the purpose of this paragraph, is less than the total benefits charged against his ac-

count during the same period, his rate shall be three and six-tenths (3-6/10) per centum, unless such employer shows to the satisfaction of the Commission that such experience was due to an act of God, fire, or other catastrophe or act of civil or military authority, directly affecting the place in which individuals were employed by him, in which case his rate shall be two and seven-tenths (2-7/10) per centum. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 7, as amended Acts 1937, 45th Leg., H. B. # 586, § 3.]

¹ Articles 5221b-1 to 5221b-22.

² Article 5221b-1.

Amendment of 1937, effective March 24, 1937.

Art. 5221b—6. Employing units subject to act as employers

(a) Any employing unit which is, or becomes an employer subject to this Act¹ within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this Act only as of the 1st day of January of any calendar year, if it files with the Commission, prior to the 5th day of January of such year, a written application for termination of coverage, and the Commission finds that there were no twenty (20) different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight (8) or more individuals in employment subject to this Act. For the purpose of this subsection, the two (2) or more employing units mentioned in paragraph (2) or (3) or (4) of section 19 (f)² shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to this Act, which files with the Commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1, of any calendar year subsequent to such two (2) calendar years, only if at least thirty (30) days prior to such 1st day of January, it has filed with the Commission a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this Act are performed, may file with the Commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this Act for not less than two (2) calendar years. Upon the written approval of such election by the Commission, such services shall be deemed to constitute employment subject to this Act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1, of any calendar year subsequent to such two calendar years, only if at least thirty (30) days prior to such 1st day of January such employing unit has filed with the Commission a written notice to that effect. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 8.]

¹ Articles 5221b-1 to 5221b-22.

² Article 5221b-17.

Art. 5221b—7. Unemployment compensation fund

(a) Establishment and Control: There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Compensation Fund, which shall be adminis-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tered by the Commission exclusively for the purposes of this Act.¹ This fund shall consist of (1) all contributions collected under this Act, together with any interest thereon collected pursuant to Section 14 of this Act;² (2) all fines and penalties collected pursuant to the provisions of this Act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and (5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

(b) Accounts and Deposit: The State Treasurer shall be treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the Commission and the Comptroller shall issue warrants upon it in accordance with such regulations as the Commission shall prescribe. The Treasurer shall maintain within the fund three (3) separate accounts: (1) A clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 14 of this Act may be paid from the clearing account upon warrants issued by the Comptroller under the direction of the Commission. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended,³ any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this State's account in the Unemployment Trust Fund. Moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the Commission, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the Commission and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals: Moneys shall be requisitioned from this State's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the Commission. The Commission shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and the Comptroller shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody. All warrants issued for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of a member of the Commission or its duly authorized agent for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during suc-

ceeding periods, or in the discretion of the Commission, shall be re-deposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund, as provided in subsection (b) of this section.

(d) Management of Funds upon Discontinuance of Unemployment Trust Fund: The provisions of subsections (a), (b) and (c), to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Commission, in accordance with the provisions of this Act; provided, that such moneys shall be invested in the following readily marketable classes of securities; bonds or other interest bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 9.]

¹ Articles 5221b—1 to 5221b—22.

² 42 U.S.C.A. § 1104.

³ Article 5221b—12.

Art. 5221b—8. Unemployment Compensation Commission

(a) Organization: There is hereby created a Commission to be known as the Texas Unemployment Compensation Commission. The Commission shall consist of three (3) members, one of whom shall be a representative of labor, one of whom shall be a representative of employers, and one of whom shall be impartial and shall represent the public generally. Each of the three (3) members of the Commission shall be appointed by the Governor immediately after the effective date of this Act or after any vacancy occurs in the membership of the Commission. During his term of membership on the Commission, no member shall engage in any other business, vocation or employment. Each member shall hold office for a term of six (6) years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of enactment of this Act shall expire, as designated by the Governor at the time of appointment, one at the end of two (2) years, one at the end of four (4) years, and one at the end of six (6) years after the date of his appointment.

(b) Chairman: The Chairman of the Texas Unemployment Compensation Commission shall be the impartial member of the Commission, and shall in addition serve as the executive director of all divisions of the Texas Unemployment Compensation Commission.

(c) Divisions: The Commission shall establish two coordinate divisions; the Texas State Employment Service Division pursuant to Section 12 of this Act,¹ and the Unemployment Compensation Division. Each

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division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget, and duties, except in so far as the Commission may find that such separation is impracticable.

(d) Salaries: The Chairman of the Texas Unemployment Compensation Commission and executive director shall be paid from the Unemployment Compensation Administration Fund a fixed monthly salary at the rate of Seventy Five Hundred (\$7,500.00) Dollars per year, and each of the other two (2) Commissioners shall from the same fund be paid a fixed monthly salary at the rate of Five Thousand (\$5,000.00) Dollars per year. From and after September 1, 1937, any sums of money paid by the State out of State funds as salaries paid the Commission shall be fixed in the regular departmental appropriation bill of the State of Texas.

(e) Quorum: Any two (2) Commissioners shall constitute a quorum, provided, however, that whenever the Commission hears any case involving a disputed claim for benefits under the provisions of Section 6 of this Act,² the impartial member of the Commission shall act alone in the absence or disqualification of any other member, and in no case shall such a hearing proceed unless the impartial member of the Commission is present. Except as hereinbefore provided, no vacancy shall impair the right of the remaining Commissioners to exercise all of the powers of the Commission.

(f) Employees: No person shall ever be employed by the Unemployment Compensation Commission who is not at the time of his employment a bona fide citizen of the State of Texas or who will not have been a bona fide citizen of the State of Texas for at least five (5) consecutive years immediately next preceding the date of employment. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 10.]

¹ Article 5221b—10.

² Article 5221b—4.

Art. 5221b—9. Administration

(a) Duties and Powers of Commission: It shall be the duty of the Commission to administer this Act;¹ and it shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this Act, which the Commission shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the preceding calendar year and shall make such recommendations for amendments to this Act as the Commission deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature, and make recommendations with respect thereto.

(b) Regulations and General and Special Rules: General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten (10) days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten (10) days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

(c) Publication: The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's regulations and general rules, its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) Personnel: Subject to other provisions of this Act, the Commission is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this Act, and may, in its discretion, bond any person handling moneys or signing checks hereunder.

(e) Records and Reports: Each employing unit shall keep true and accurate employment records, containing such information as the Commission may prescribe and which is deemed necessary to the proper administration of this Act. Such records shall be open to inspection and subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this Act. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the Commission who violates any provision of this section shall be fined not less than Twenty (\$20.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, or imprisonment² for not longer than ninety (90) days, or both.

(f) Oaths and Witnesses: In the discharge of the duties imposed by this Act, the chairman of an appeal tribunal and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this Act.

(g) Subpoenas: In case of contumacy by, or refusal to obey a subpoena issued to any person, any County or District Court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to

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obey is found or resides or transacts business, upon application by the Commission or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before a commissioner, the Commission, or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the Commission, shall be punished by a fine of not less than Two Hundred (\$200.00) Dollars, or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(h) Protection against Self Incrimination: No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission or in obedience to the subpoena of the Commission or any member thereof or any duly authorized representative of the Commission in any cause or proceeding before the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(i) State-Federal Cooperation: In the administration of this Act, the Commission shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended;³ shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act⁴ for the purpose of assisting in the administration of this Act.

Upon request therefor, the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 11.]

¹ Articles 5221b—1 to 5221b—22.

² So in enrolled bill. Probably should read "imprisoned."

³ 42 U.S.C.A. §§ 301-1305.

⁴ 42 U.S.C.A. §§ 501-503.

Art. 5221b—10. Employment service

(a) Texas State Employment Service, as provided for under Act of the Forty-fourth Legislature, Regular Session, Chapter 236, page 552,¹ is hereby transferred to the Commission as a division thereof. The Commission, through such division, shall establish and maintain free public employment offices in such number and in such places as may be neces-

sary for the proper administration of this Act,² and for purposes of performing such duties, as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system and for other purposes," approved June 6, 1933, (48 Stat. 113; U.S.C., Title 29, Section 49 (c)) as amended.³ It shall be the duty of the Commission to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State in conformity with Section 4 of said Act,⁴ and this State will observe and comply with the requirements thereof. The Texas Unemployment Compensation Commission is hereby designated and constituted the agency of this State for the purposes of said Act. The Director, other officers and employees of the Texas State Employment Service shall be appointed by the Commission in accordance with regulations prescribed by the Director of the United States Employment Service.

(b) Financing: All monies received by this State under the said Act of Congress, as amended, shall be paid into the special "Employment Service Account" in the Unemployment Compensation Administration Fund, and said monies are hereby made available to the Texas Unemployment Compensation Commission to be expended as provided by this Section and by said Act of Congress, and any unexpended balance of funds appropriated or allocated either by the State of Texas or the Federal Government to the Texas State Employment Service as a division of the Bureau of Labor Statistics, is hereby, upon the passage of this Act, transferred to the special "Employment Service Account" in the Unemployment Compensation Administration Fund. For the purpose of establishing and maintaining free public employment offices, the Commission is authorized to enter into agreements with any political subdivision of this State or with any private, and/or nonprofit organization, and as a part of any such agreement the Commission may accept monies, services, or quarters as a contribution to the special "Employment Service Account."

(c) Invalidity of Transfer: In the event that this Act, or any section thereof, in so far as the same shall affect the Texas State Employment Service, shall be held or declared unconstitutional or invalid, then in that event Chapter 236, page 552, Acts of the Regular Session of the Forty-fourth Legislature establishing the Texas State Employment Service shall be and remain in full force and effect as it was prior to the passage of this Act. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 12, as amended Acts 1937, 45th Leg., H.B. # 586, § 4.]

¹ Article 5221a-2.

² Articles 5221b-1 to 5221b-22.

³ 29 U.S.C.A. §§ 49 to 49L.

⁴ 29 U.S.C.A. § 49c.

Amendment of 1937, effective March 24, 1937.

Art. 5221b—11. Unemployment Compensation Administration Fund

(a) Special Fund: There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this Fund are hereby appropriated and made available to the Commission. All moneys in this Fund shall be expended solely for the purpose of defraying the cost of the administration of this Act,¹ and for no other purpose whatsoever. The Fund shall consist of all moneys appropriated by this

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State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board and the United States Employment Service, or from any other source, for such purpose, and shall be administered separate and apart from all public moneys or funds of the State. All moneys in this Fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balances in this Fund shall not lapse at any time, but shall be continuously available to the Commission for expenditure consistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the Commission and in a form prescribed by law or approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the Treasurer of the Unemployment Compensation Fund under Section 9 of this Act,² shall be paid from the moneys in the Unemployment Compensation Administration Fund.

(b) Employment Service Accounts: A special "Employment Service Account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to Section 12 of this Act³ and for the purpose of cooperating with the United States Employment Service. There shall be paid into such account the moneys designated in Section 12 (b) of this Act, and such moneys as are apportioned for the purposes of this account from any moneys received by this State under Title III of the Social Security Act, as amended.⁴ [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 13, as amended Acts 1937, 45th Leg., H.B. # 586, § 5.]

¹ Articles 5221b—1 to 5221b—22.

² Article 5221b—7.

³ Article 5221b—10.

⁴ 42 U.S.C.A. §§ 501-503.

Amendment of 1937, effective March 24, 1937.

Art. 5221b—12. Collection of contributions

(a) Interest on Past Due Contributions: Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall bear interest at the rate of one (1%) per centum per month from and after such date until payment plus accrued interest is received by the Commission. Interest collected pursuant to this subsection shall be paid into the Unemployment Compensation Fund.

(b) Collections: If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the State and the Attorney General, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.¹

(c) Priorities under Legal Dissolutions or Distributions: In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than Two Hundred Fifty (\$250.00) Dollars to each claimant,

earned within six (6) months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in Section 64 (b) of that Act (U.S.Code, title 11, sec. 104 (b), as amended.²

(d) Refunds: If not later than one (1) year after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the Commission shall determine that such contributions or interest or any portion thereof was erroneously collected, the Commission shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the Commission shall refund said amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the Commission's own initiative. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 14.]

¹ Articles 8306 et seq.

² 11 U.S.C.A. § 104(b) as amended.

Art. 5221b—13. Protection of rights and benefits

(a) Waiver of Rights Void: No agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this Act¹ shall be valid. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this Act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of an employer who violated² any provision of this subsection shall, for each offense, be fined not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or be imprisoned for not more than six (6) months, or both.

(b) Limitation of Fees: No individual claiming benefits shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the Commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the Commission. Any person who violates any provision of this subsection shall for each such offense, be fined not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, or imprisoned for not more than six (6) months, or both.

(c) No Assignment of Benefits; Exemptions: No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was un-

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employed. No waiver of any exemption provided for in this subsection shall be valid. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 15.]

¹ Articles 5221b—1 to 5221b—22.

² So in enrolled bill. Probably should read "violates."

Art. 5221b—14. Penalties

(a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act,¹ either for himself or for any other person, shall be punished by a fine of not less than Twenty (\$20.00) Dollars, nor more than Fifty (\$50.00) Dollars, or by imprisonment for not longer than thirty (30) days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than Twenty (\$20.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall willfully violate any provision of this Act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than Twenty (\$20.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the Commission, either be liable to have such sum deducted from any future benefits payable to him under this Act or shall be liable to repay to the Commission for the Unemployment Compensation Fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in section 14 (b) of this Act² for the collection of past due contributions. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 16.]

¹ Articles 5221b—1 to 5221b—22.

² Article 5221b—12.

Art. 5221b—15. Representation in court

(a) In any civil action to enforce the provisions of this Act¹ the Commission and the State shall be represented by an Assistant Attorney

General who shall be appointed by the Attorney General and designated to perform such legal duties as may be required of him by the Commission, and who shall institute in the name of the State and in the name of the Attorney General any civil action requested of him by the Commission. Such Assistant Attorney General shall be paid by the Unemployment Compensation Commission for the services performed by such Assistant Attorney General solely for the Commission. Such Assistant Attorney General may be assisted by any other qualified attorneys who are regularly employed by the Commission.

(b) All criminal actions for violations of any provision of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the State; or, at his request and under his direction, by the Prosecuting Attorney of any county in which the employer has a place of business or the violator resides. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 17.]

¹ Articles 5221b—1 to 5221b—22.

Art. 5221b—15a. Reciprocal arrangements

The Commission is hereby authorized to enter into arrangements with the appropriate agencies of other States or the Federal Government whereby individuals performing services in this and other States for a single employing unit under circumstances not specifically provided for in Section 19 (g) of this Act,¹ or under similar provisions in the unemployment compensation laws of such other States, shall be deemed to be engaged in employment performed entirely within this State or within one of such other States and whereby potential rights to benefits accumulated under the unemployment compensation laws of several States or under such a law of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the Fund. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 17-A, as added Acts 1937, 45th Leg., H.B. # 586, § 7.]

¹ Article 5221b-17(g).

Effective March 24, 1937.

Art. 5221b—16. Nonliability of state

Benefits shall be deemed to be due and payable under this Act¹ only to the extent provided in this Act and to the extent that moneys are available therefor to the credit of the Unemployment Compensation Fund, and neither the State nor the Commission shall be liable for any amount in excess of such sums. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 18.]

¹ Articles 5221b—1 to 5221b—22.

Art. 5221b—17. Definitions

As used in this Act,¹ unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages payable by an employer (regardless of the time of the payment) for employment during a calendar year.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

(3) "Base period" means the period beginning with the first day of the nine (9) completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding any week

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

with respect to which benefits are payable, provided, however, that where there are not nine (9) completed calendar quarters preceding the first day of an individual's benefit year, "base period" shall mean the period beginning with the first day of the first completed calendar quarter and ending with the last day of the next to last completed calendar quarter immediately preceding any week with respect to which benefits are payable.

(4) "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the Commission may by regulation prescribe.

(b) (1) "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

(2) "Benefit year," with respect to any individual, means the fifty-two-consecutive-week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter the fifty-two-consecutive-week period beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

(c) "Commission" means the Unemployment Compensation Commission established by this Act.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund required by this Act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of Section 19 (f) or Section 8 (c) of this Act,² the employing unit shall for all the purposes of this Act be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of Section 19 (f) or Section 8 (c) of this Act shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for any pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of Section 19 (f) or Section 8 (c) of this Act, may recover the same from such contractor or subcontractor. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment, eight (8) or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

(3) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this Act) and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this Subsection;

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interest, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this Subsection;

(5) Any employing unit which, having become an employer under paragraph (1), (2), (3), or (4), has not, under Section 8,² ceased to be an employer subject to this Act;

(6) For the effective period of its election pursuant to Section 8 (c) ² any other employing unit which has elected to become fully subject to this Act.

(g) (1) "Employment," subject to the other provisions of this Subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this State if:—

(A) the service is localized in this State; or

(B) the service is not localized in any State but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed but the individual's residence is in this State.

(3) Services not covered under paragraph (2) of this Subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment subject to this Act if the individual performing such services is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this Act.

(4) Service shall be deemed to be localized within a State, if:—

(A) the service is performed entirely within such State; or

(B) the service is performed both within and without such State, but the service performed without such State is incidental to the individu-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

al's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this Act unless and until it is shown to the satisfaction of the Commission that:—

(A) such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(B) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) such individual is customarily engaged in an independently established trade, occupation, profession, or business.

(6) The term "employment" shall not include:

(A) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(B) Service performed in the employ of any other State or its political subdivisions, or of the United States Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(C) Service with respect to which unemployment compensation is payable under an Unemployment Compensation System established by an Act of Congress; provided, that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 11(b) of this Act³ for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

(D) Agricultural labor;

(E) Domestic service in a private home;

(F) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(G) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) years in the employ of his father or mother;

(H) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of net earnings of which inures to the benefit of any private shareholder or individual;

(I) In determining employees under this Act and in determining employers under this Act, and in determining wages under this Act, neither term shall include employment of or service by agents of insurance companies who collect their compensation on a commission basis.

(h) "Employment office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State controlled system of public employment offices.

(i) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(j) "Partial Unemployment": An individual shall be deemed "partially employed" in any week of less than full-time work if his wages payable for such week fail to equal Two Dollars (\$2) more than the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

(k) "State" includes, in addition to the States of the United States of America, Alaska, Hawaii, and the District of Columbia.

(l) "Total Unemployment": An individual shall be deemed "totally unemployed" in any week during which he performs no services and with respect to which no wages are payable to him. An individual's week of total unemployment shall be deemed to commence only after his registration pursuant to Section 4 (a) of this Act,⁴ except as the Commission may otherwise prescribe. As used in this Subsection (l) and Subsection (j), the term "wages" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of Three Dollars (\$3) in any one week, and the term "services" shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than Three Dollars (\$3) in any one week is payable.

(m) "Unemployment Compensation Administration Fund" means the Unemployment Compensation Administration Fund established by this Act, from which administrative expenses under this Act shall be paid.

(n) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission.

(o) "Week" means such period of seven (7) consecutive calendar days, as the Commission may prescribe.

(p) "Weekly Benefit Amount": An individual's "weekly benefit amount" means the amount of benefits he would be entitled to receive for one week of total unemployment. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 19, as amended Acts 1937, 45th Leg., H.B. # 586, § 7.]

¹ Articles 5221b—1 to 5221b—22.

² Article 5221b—6.

³ Article 5221b-9(b).

⁴ Article 5221b—2.

Amendment of 1937, effective March 24, 1937.

Art. 5221b—18. Political activities

No department included in this Act¹ shall use any of the means or funds appropriated to such department, either directly or indirectly, for the purpose of telephoning, telegraphing or sending out literature, propaganda, letters or bulletins, or any other matter, printed or written, that will influence or tend to influence, in any way, the election of any candidate for office or the passage or defeat of any law or appropriation affecting any department included in this bill; and provided, further, that no stenographer or other employee whose salary is paid from funds provided under this Act, may be used or employed in any manner in the preparation or mailing out, or in any way handling such literature, propaganda, letters or bulletins, or any other matter, printed or written, that will influence, or tend to influence, in any way the election of any candidate for office or the passage or defeat of any law or appropriation affecting any department included in this Act, and no such work shall be done or performed in any of the offices or rooms of the Capitol or any other State building.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

It is hereby declared unlawful for any person employed in any capacity in any of the departments to engage in or take part in any political campaign in relation to matters directly affecting the particular department in which the particular employee is employed, and/or concerning the election or re-election of any candidate for the head of the particular department by which such employee is employed; by "engaging in a political campaign" or "taking part in a political campaign" is meant and shall include distributing circulars, hand bills, posting pictures, handing out cards, making speeches, thereby soliciting or opposing the election of any candidate for office as the head of such department whereby the offending employee is employed.

It is further declared unlawful for any employee of this department to go outside of the county of the residence of such employee and in any manner campaign for or against the election and/or re-election of any candidate for public office other than such department head of the department in which such employee is employed.

Any such employee, engaging in such inhibited and unlawful conduct, shall be subject to removal from his position and restraint from re-employment in such department or any other department of government or subdivision thereof, for a period of five (5) years by a judgment in the District Court of the County wherein such unlawful activity occurred. Any five (5) or more qualified voters, residents of such county, shall have the authority to institute a suit in a District Court of such County, praying for the removal of such employee from such department, citing such employee and the head of the department, and upon final hearing the allegations of the petition being sustained, the judgment shall be to discharge the employee and restraining the head of the department from re-employing such employee for a period of one (1) year from the date of the judgment.

It is hereby further declared unlawful for any person authorized to use a State owned automobile, in connection with any business of the State, to use such automobile in connection with any campaign in which such department is directly interested, or in behalf of the campaign for re-election of the head of any department, and/or in any other manner, time or place than when such automobile is being used in the interest of and for the purpose of carrying out departmental State business. Any person violating this section shall, upon final conviction, be subject to a fine of not less than Fifty (\$50.00) Dollars, nor more than Two Hundred (\$200.00) Dollars. In the event such use of such automobile is being made with the knowledge of the head of any department, having charge of such automobile, then such department head shall also be liable to punishment in a fine of Two Hundred (\$200.00) Dollars. Any court of competent jurisdiction in the county where this law is violated shall have jurisdiction to try such cause.

It is hereby made the duty of every department head to furnish every employee of his department a copy of the law set out in the preceding three (3) paragraphs, and to take the receipt of such employee therefor. These receipts shall at all times be kept accessible for public inspection and failure of any department head to comply with this mandate, shall constitute malfeasance in office, and upon judgment so adjudicating such department head shall be removed from office. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 20.]

¹ Articles 5221b—1 to 5221b—22.

Art. 5221b—19. Repeal or amendment

Saving Clause: The Legislature reserves the right to amend or repeal all or any part of this Act¹ at any time; and there shall be no

vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this Act at any time. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 21.]

¹Articles 5221b—1 to 5221b—22.

Art. 5221b—20. Partial invalidity; Separability of provisions

(a) If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act,¹ or the application thereof to any person or circumstance, is held invalid, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

(b) In the event that the provisions of this Act which impose a compulsory contribution be declared invalid or void for any reason, the remainder of the Act shall nevertheless remain in full force and effect; and it is declared to be the intention of the Legislature that the remainder of the Act would have been enacted without the provisions imposing contributions. It is further enacted that in the event the provisions of this Act which impose contributions, are held invalid or void, all payments which have been voluntarily made under the provisions of the Act shall be and remain the property of the fund to which they are deposited; and that employers shall have the right to continue to make voluntary contributions for unemployment insurance under this Act.

(c) In the event it shall be determined and held by the courts that the provisions of this State Act imposing compulsory contributions is invalid and void, it shall be the duty of the Commission to make such refunds to individual contributors as are entitled to the same. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 22.]

¹Articles 5221b—1 to 5221b—22.

Art. 5221b—21. Powers of Commission

General Provisions: In all cases where the Commission is given authority to make investigations, to assemble information and to require the submission of documentary or oral testimony it is the intention of the Legislature to grant to the commission only such powers as are necessary for the Commission to exercise in order that they may properly administer this Act.¹ [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 23.]

¹Articles 5221b—1 to 5221b—22.

Art. 5221b—22. Termination of act

Provisions for Termination of Act and Return of Contribution: In the event the Supreme Court of the United States hold the Federal Social Security Act approved by the President August 14, 1935,¹ unconstitutional or inoperative for any reason whatsoever, then in that event the powers, duties and levies herein provided for, shall have no further force or effect and the Commission shall cease to function and all payments of levies and taxes made hereunder and then remaining unexpended shall be upon proper proof returned ratably to those making such payments, and it shall be the duty of the Unemployment Compensation Commission to perform this Act,² and the Unemployment Compensation Commission shall remain in performance of this duty only until such Act has been performed. [Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 24.]

¹42 U.S.C.A. §§ 301-1305.

²Articles 5221b—1 to 5221b—22.

Section 25 of Act 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, declared an emergency

and provided that the Act should take effect and be in force from and after its passage.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 5221b—23. Relief investigators in counties of 48,900 to 48,975 and 10,370 to 10,380

Section 1. The County Commissioners Courts and the municipal government of any incorporated city, town, or village, in this State may appoint, employ, and pay case workers and investigators to make investigations of needy persons to whom may be supplied necessities and supplies furnished by the Texas Relief Commission, any Federal Agency, bureau, or department, properly and legally handling supplies for the relief of needy persons, any county or city jointly or severally administering supplies for the relief of indigent or needy persons, said appointment and employment to be made subject to the provisions of this Act, providing, however, that in no case shall there be employed more than one case worker or investigator to every one hundred thousand (100,000) inhabitants to any one county.

Sec. 2. Provided further, that County Commissioners Courts in this State in conjunction with municipal governments of any incorporated city, town, or village of this State may enter into an agreement to jointly appoint, employ, and pay the salary of case workers and investigators to make investigations of needy persons to whom may be supplied necessities and supplies furnished by the Texas Relief Commission, and Federal Agency, bureau, or department, properly and legally handling supplies for the relief of needy persons, any county or city jointly or severally administering supplies for the relief of indigent or needy persons, said appointment and employment to be made subject to the provisions of this Act, in such proportionate parts as may be agreed upon by the said Commissioners Court of any county and any municipal government of any incorporated city, town, or village situated in said county; provided that in no event shall the usual compensation paid to any case worker or investigator appointed, employed, and paid pursuant to the provisions of this Act exceed the sum of Twelve Hundred Dollars (\$1200) per annum.

Sec. 3. It shall be the duty of said case worker or investigator, if and when appointed under the provisions of this Act, to inspect the conditions existing with reference to all applicants for relief, who apply for supplies or necessities and to report to the proper relief agency his findings with reference thereto and to certify the necessity, when same is found, for the furnishing of said supplies to said needy or indigent person by the Texas Relief Commission, any proper Federal Agency, bureau, or department, properly and legally handling supplies for the relief of needy persons, or by counties or cities, or any of said agencies, commissions, counties, or cities; and no supplies for assistance shall be furnished by other than the Federal or State Governments unless said certificate of necessity shall be so furnished by said case worker or investigator.

Sec. 4. This Act shall be in force and effect for a period of two (2) years from and after the date of its enactment.

Sec. 4a. Provided that the provisions of this Act shall apply to counties with a population of not less than forty-eight thousand, nine hundred (48,900) nor more than forty-eight thousand, nine hundred and seventy-five (48,975), and counties with a population of not less than ten thousand, three hundred and seventy (10,370) and not more than ten thousand, three hundred and eighty (10,380), according to the last preceding Federal Census. [Acts 1937, 45th Leg., H.B. # 410.]

Effective May 5, 1937, for a period of two years from date of enactment.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that County Commissioners Courts and the municipal government of any incorporated city, town, or village, may appoint, employ, and pay

case workers and investigators to make investigation of needy persons to whom may be supplied necessities furnished by the Texas Relief Commission, any proper Federal Agency or by counties or cities or by any one of said agencies, commission, cities, or counties; providing that there shall in no case be employed more than one case worker or investigator to every one hundred thousand (100,000) inhabitants of each county of this State; providing that County Commissioners Courts in this State in conjunction with municipal governments of any incorporated city, town, or village, may enter into an agreement to jointly appoint, employ, and pay the salary of case workers and investigators to make investigations of needy persons to whom may be supplied

necessities furnished by the Texas Relief Commission, any proper Federal Agency or by counties, or cities or by any one of said agencies, commission, cities, or counties in such proportionate parts as may be agreed upon by the said Commissioners Court of any county and any municipal government situated in said county; providing compensation for any case worker so employed and appointed may not exceed Twelve Hundred Dollars (\$1200) per annum; providing the duties of said case workers and investigators; providing that this Act shall remain in force and effect for a period of two (2) years after the date of its enactment; making the Act applicable only to certain counties, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #410.]

CHAPTER FIFTEEN—INSPECTION OF STEAM BOILERS [New].

Art.
5221c. Definitions.

Art. 5221c. Definitions

Section 1. The following terms as used in this Act shall be construed as follows:

“Commissioner” as used herein shall mean the Commissioner of the Bureau of Labor Statistics of the State of Texas;

“Inspector” as used herein shall mean the inspector of steam boilers appointed under the provisions of this Act;

“Deputy” as used herein shall mean any deputy inspector of boilers appointed under the provisions of this Act;

“Boiler” as used herein shall mean any vessel used for generating steam for power or heating purposes;

“Owner or user” as used herein shall mean any person, firm or corporation owning or operating, or in charge of or in control of any boiler as herein defined;

“Safety device” as used herein shall mean any appurtenance attached to any boiler for the purpose of diminishing the danger of accidents;

“Code of Rules” as used herein shall mean the standard code of rules promulgated and adopted by the Commissioner under the provisions of this Act.

Registration of boilers; certificate of operation; injunction against operation of unsafe boiler

Sec. 2. No steam boiler, unless otherwise specifically exempted in this Act, shall be operated within the State of Texas unless such boiler has been registered with the Bureau of Labor Statistics and there shall have been issued a Certificate of Operation for such boiler, as hereinafter provided for, and such Certificate of Operation shall remain in full force and effect until expiration unless cancelled for cause by the Commissioner; such Certificate of Operation shall be placed under glass in a conspicuous place on or near the boiler for which it is issued; and no prosecution shall be maintained where the issuance of or the renewal for such Certificate of Operation shall have been requested and shall remain unacted upon; provided, however, if the operation of such boiler without such Certificate of Operation shall constitute a serious menace to the life and safety of any person or persons in or about the premises, the Commissioner or the in-

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

spector of boilers or any deputy inspector, as hereinafter provided for, shall apply to the District Court in a suit brought by either the Attorney General of the State, or any District or County Attorney, in the county in which such boiler is located, for an injunction restraining the operation of said boiler until the unsafe condition restraining its use shall be corrected and a Certificate of Operation issued. In all such cases it shall not be necessary for the attorney bringing the suit to verify the pleadings or for the State to execute a bond as a condition precedent to the issuing of any injunction or restraining order hereunder. The affidavit of the Commissioner that no application for or no Certificate of Operation exists for such boiler, and the affidavit of any inspector or deputy inspector that its operation constitutes a menace to the life and safety of any person or persons in or about the premises, shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

Exemptions from act

Sec. 3. The following boilers are exempt from the provisions of this Act:

- (1) Boilers under Federal control and stationary boilers at roundhouses and pumping stations of railway companies under the supervision and inspection of the Superintendent of Motive Power of such railway companies;
- (2) Boilers on which the pressure does not exceed fifteen (15) pounds per square inch;
- (3) Automobile boilers and boilers on road motor vehicles;
- (4) Boilers used exclusively for agricultural purposes;
- (5) Boilers for heating in buildings occupied solely for residence purposes with accommodations not to exceed four families;
- (6) Boilers used for cotton gins.

Inspections; ordering repairs to unsafe boiler; hearing; temporary certificate

Sec. 4. The Commissioner shall cause to be inspected internally and externally not less frequently than once each twelve (12) months each stationary steam boiler subject to the provisions of this Act. Each portable steam boiler subject to the provisions of this Act shall be inspected externally each time it is moved to a new location, provided that an internal inspection shall be made of each such boiler at least once each twelve (12) months. If such boilers referred to herein are found, upon inspection, to be in a safe condition for operation, a Certificate of Operation shall be issued by the Commissioner for its operation for a period not longer than one year from the date of such inspection. If any inspection authorized hereunder shall show the inspected boiler to be in an unsafe or dangerous condition, the boiler inspector or any deputy may issue a preliminary order requiring such repairs and alterations to be made to such boiler as may be necessary to render it safe for use, and may also order the use of such boiler discontinued until such repairs and alterations are made or such dangerous and unsafe conditions are remedied. Unless such preliminary order be complied with by the owner or user, a hearing before the Commissioner shall be allowed, upon written request, at which the owner or user, making the request, shall have opportunity to appear and show cause why he should not comply with said preliminary order. If it shall thereafter appear to the Commissioner that such boiler is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make said boiler safe, the Commissioner may order or confirm the withholding of the Certificate of Operation for said boiler and may make such requirements as

he deems proper for the repair or alteration of said boiler or the correction of such dangerous and unsafe conditions. The inspector in his discretion may issue a temporary Certificate of Operation for not to exceed thirty (30) days, pending the making of replacements or repairs. Nothing in this Section shall be construed to limit the authority of the Commissioner as set forth in Section 6 of this Act. "Certificate of Operation" used in this Section shall mean the "Certificate of Operation" referred to in Section 2 of this Act.

Insurance companies to file reports of inspections; boilers inspected by insurance companies exempt from other inspections; certificate of operation

Sec. 5. Every insurance company insuring boilers in this State shall, within thirty (30) days after inspecting any steam boiler, file a duplicate report of such inspection with the Commissioner showing the date of such inspection together with the name of the person making such inspection, and such report shall show fully the condition and location of such boiler at the time such inspection was made. Such report shall also state when the policy of insurance was issued by the insurance company on said boiler and the date of expiration of such policy of insurance.

The owner or user of every boiler inspected by an inspector for an insurance company authorized to do business in this State on which such insurance company has issued a policy of insurance after inspection thereof, shall be exempt from other inspections and inspection fees under the provisions of this Act; provided nothing in this Section shall prevent the Commissioner from authorizing the inspection of any insured boiler at any reasonable time when, in the opinion of the Commissioner, such insured boiler may be in an unsafe condition, provided the Commissioner shall contact the insurance company carrying insurance on said boiler and that the inspector for the insurance company carrying such insurance and the inspector or deputy inspector shall jointly and together inspect the boiler, within twenty (20) days, for which inspection no additional charge shall be made as set forth in Section 12 of this Act. The Commissioner is authorized and has authority to issue a Certificate of Operation to the owner or user of all boilers subject to inspection under this Act, and the owner or user of an insured boiler shall pay the sum of fifty (50) cents for each Certificate of Operation issued, and the owner or user of a State inspected boiler shall pay a like sum of fifty (50) cents for each Certificate of Operation issued, which said fee shall be and is absorbed by the internal and external inspection fee authorized in Section 12 of this Act. Every insurance company shall notify the Commissioner in writing of the cancellation or expiration of every policy of insurance issued by it with reference to boilers in this State, within twenty (20) days after the expiration or cancellation of said policy, giving the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation or expiration has or will become effective.

Commissioner to promulgate rules and regulations; exchange of information

Sec. 6. The Commissioner is hereby authorized and empowered to promulgate and enforce a code of rules and regulations in keeping with standard usage, for the construction, installation, use, maintenance and operation of steam boilers and appurtenances thereof; including the boiler room; and to require such devices and safeguards and other reasonable means and methods to insure safe operation of steam boilers, including the registration thereof with the Bureau of Labor Statistics.

The Commissioner may exchange information and experience data with the department or other administrative authorities of States having

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

boiler inspection divisions or departments in assembling data for the promulgation of rules and regulations authorized under the provisions of this Act.

Before any rule, regulation or order is promulgated, adopted, enforced, amended, modified or repealed by the Commissioner a public hearing shall be held by him, and not less than ten (10) days before such hearing notice thereof shall be published in at least three (3) newspapers published and having general circulation in the State of Texas, such newspapers to be selected by the Commissioner. After the adoption of rules, regulations and orders by the Commissioner, a complete copy of same shall be published in at least three (3) newspapers, as in the notice of the hearing prior to their adoption, on two (2) different days not more than ten (10) days apart, and within thirty (30) days after the adoption of such rules, regulations and orders; provided that in lieu of publishing in newspapers the rules, regulations and orders by the Commissioner, as stated above, the Commissioner may publish and circulate said rules, regulations and orders or the repeal, modification or amendment of any such rule, regulation or order in such form or manner as he may determine; and such rules, regulations and orders shall become effective within ten (10) days after date of notice of adoption thereof or final publication, or at such later time as the Commissioner may, in the rules, regulations and orders, determine. The Commissioner is hereby authorized and empowered, in case of extreme emergency, to promulgate and enforce temporary rules, regulations and orders as he may deem necessary, without publishing the same as hereinabove directed; provided, however, that when such temporary rules, regulations or orders are adopted the same shall not be effective for a period of more than twenty (20) days and no criminal prosecution, as hereinafter provided, shall be had until the provisions of Section 16 of this Act have been complied with.

Party aggrieved by rule or regulation; procedure; hearing; modification of rules

Sec. 7. When any interested person shall deem himself aggrieved by any fundamental rule, regulation or order promulgated by the Commissioner, he shall notify the Commissioner of such grievance by formal notice in writing, whereupon the Commissioner shall give consideration of such grievance and may modify, change, alter or amend same upon his own motion; upon failure or refusal of the Commissioner, within ten (10) days, to change, alter or modify such fundamental rule, regulation or order, the Commissioner, shall, upon written application for hearing, cause the same to be held within five (5) days thereafter, at which the person complaining shall have opportunity to show cause, if any, why such fundamental rule, regulation or order complained of should be set aside, altered, amended or repealed.

Inspector, appointment and qualifications; deputy inspectors

Sec. 8. Within thirty (30) days after the passage of this Act the Commissioner shall appoint a suitable person to be inspector of steam boilers for the State of Texas. Said inspector of steam boilers shall be a resident citizen of Texas for at least five (5) years next preceding to the time of his appointment and shall have had, at the time of such appointment, not less than five (5) years practical experience with steam boilers as a steam engineer, boilermaker or boiler inspector and by examination enable him to judge the safety of boilers for use, and who is neither directly nor indirectly interested in the manufacture, ownership or agency of steam boilers or their appurtenances. It shall be the duty of the Commissioner to appoint one (1) or more deputy inspectors as needed with like

qualifications of the inspector of steam boilers, and such clerical assistants as may be necessary to carry out the provisions of this Act.

Salaries and expenses

Sec. 9. The salary of the inspector of steam boilers shall not exceed Three Thousand Dollars (\$3,000) per annum and the salary of each deputy inspector shall not exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, and in addition thereto all inspectors shall be allowed their actual expenses incurred in the performance of their official duties, and for such equipment as may be deemed necessary by the Commissioner. All expenses incident to carrying out the provisions of this Act shall be paid out of the funds in the State Treasury to the credit of the "State Boiler Inspection Fund" on vouchers or warrants issued and signed by the Commissioner and the Comptroller of Public Accounts. The Commissioner may incur such expense for clerical assistants and office supplies as may be necessary, not exceeding Seven Thousand, Five Hundred Dollars (\$7,500) annually, said sums to be paid by the State Treasurer on warrants drawn by the Comptroller of Public Accounts.

Persons authorized to inspect; Commission from Commissioner showing qualifications; power of commissioner

Sec. 10. The Commissioner may cause the inspection provided for in this Act to be made either by the inspector of boilers or any deputy inspector, or by any qualified boiler inspector employed by any county, or city and county, or city, or any insurance company, provided that such persons making inspections (other than the inspector of boilers or deputy inspectors regularly employed by the Commissioner) shall first obtain from the Commissioner a commission as inspector showing his qualifications to make such inspections. The Commissioner is vested with full power and authority to determine the qualifications of any applicant or other person seeking a commission as inspector, by examination. At the discretion of the Commissioner he may accept, after proper investigation by him, the commission issued to an inspector by any other state having an examination equal to that of the State of Texas. The Commissioner may rescind at any time, upon good cause being shown therefor, any commission as inspector issued by him to any person, and he may at any time, upon good cause being shown therefor and after notice and opportunity for hearing thereon, revoke any Certificate of Operation issued for any steam boiler within this State.

Reports of inspections

Sec. 11. Every inspector receiving a commission as inspector shall forward to the Commissioner on forms furnished the inspector by the Commissioner, within thirty (30) days after an inspection is made, a report of such inspection, in default of which the commission as inspector may be cancelled by the Commissioner.

Fees for inspections

Sec. 12. The Commissioner shall fix and collect fees for the inspection of steam boilers covered by this Act, not exceeding Two Dollars and Fifty Cents (\$2.50) for each external inspection and not to exceed Seven Dollars and Fifty Cents (\$7.50) for each internal inspection in each twelve-month period. Such fees must be paid by the owner or user before the issuance of a Certificate of Operation for the boiler inspected. No fee shall be charged the owner or user by the Commissioner when the inspection herein provided for has been made by an inspector holding a commission as inspector from said Commissioner if the holder of such commis-

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

sion as inspector is employed by any county, or city and county, or city, or insurance company, except the charge fixed for Certificate of Operation in Section 5 hereof. All fees collected by the Commissioner under this Act shall be paid into the State Treasury to the credit of the "State Boiler Inspection Fund" together with a detailed report of same, and said monies so deposited in said special fund are hereby appropriated for the purpose of paying the expenses of the administration of this Act.

Penalties for violations by persons in charge of steam boilers

Sec. 13. Any person, firm, corporation, or agent thereof, owning or having the custody, management, use or operation of any steam boiler in this State, who shall violate any provision of this Act, or who violates any rule, regulation or order promulgated by authority hereof by the Commissioner or any regularly employed inspector authorized to enforce any provision or any rule, regulation or order authorized herein, or any person, firm, corporation, or agent thereof coming within any provision of this Act, or any rule, regulation or order authorized herein, who shall fail or refuse to comply therewith, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be subject to a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Violations by operators of factories, mills, mines, stores, or business houses, misdemeanors

Sec. 14. Any owner, manager, superintendent or other person in charge or in control of any factory, mill, workshop, mine, store, business house, public or private work, or the lessee or operator of same, or the owner or lessee of any mineral estate in land, or any other place where a steam boiler subject to inspection hereunder is located, who shall refuse to allow any official or employee of the Bureau of Labor Statistics to enter the same and remain thereon or therein for such time as is reasonably necessary, or who shall hinder any such official or employee in any way, or who shall in any way prevent or deter him from carrying out the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed One Hundred Dollars (\$100) or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Notice of violation of act or rule or regulation prerequisite to criminal prosecution

Sec. 15. Whenever there shall have been adopted, after notice and hearing as provided for under this Act, any rule, regulation or order, no criminal action shall be maintained against any person involving the violation of any provision of such rule, regulation or order, until the Commissioner shall have given notice of such rule, regulation or order by publishing a complete copy of same in three (3) newspapers published and having general circulation in the State of Texas, such newspapers to be selected by the Commissioner, once each day for two (2) consecutive days; on and after the fifteenth calendar day following the date of the last publication, such rule, regulation, and order shall be effective and enforceable in any criminal action brought pursuant to this Act. No criminal action shall be maintained against any person involving the violation of any provision or any amendment or modification of any rule, regulation or order of the Commissioner until and unless the said Commissioner shall have promulgated such amendment or modification after its adoption by publishing a complete copy of such amended rule, regulation or order in three

(3) newspapers published and having general circulation in the State of Texas once each day for two (2) consecutive days; on and after the fifteenth calendar day following the date of the last publication, such amendment or modification of such rule, regulation or order shall become effective and enforceable in any criminal action brought pursuant to this Act; provided that in lieu of the publishing in newspapers of rules, regulations, orders, amendments and modifications, as stated above, the Commissioner may publish and circulate said rules, regulations, orders, amendments or modifications in such form or manner as he may determine.

**Affidavit of Commissioner stating terms of order and publication thereof
prima facie evidence**

Sec. 16. An affidavit under the Seal of the Commissioner executed by the said Commissioner or the inspector of boilers or any deputy inspector, setting forth the terms of any order of the Commissioner and that it has been adopted, promulgated and published, and was in effect at any date during any period specified in such affidavit, shall be prima facie evidence of all such facts, and such affidavit shall be admitted in evidence in any action, civil or criminal, involving such order and the publication thereof without further proof of such promulgation, adoption or publication and without further proof of its contents.

Disposition of funds collected; State Boiler Inspection Fund

Sec. 17. The funds collected under the provisions of this Act shall be paid into the State Treasury and kept in a special fund to be known as the "State Boiler Inspection Fund" and shall be paid out for salaries, traveling expenses and other necessary expenses specified in this Act and upon proper account duly approved by the Commissioner.

Appropriation

Sec. 18. There is hereby appropriated out of the General Revenue Fund of the State of Texas the sum of Twenty Thousand Dollars (\$20,000), or so much thereof as may be necessary not otherwise appropriated, for the purposes of carrying out the provisions of this Act; said amount that may be expended out of this appropriation shall be replaced and refunded to the General Revenue Fund by the Commissioner from fees collected under the terms of this Act during the first year of the operation of this Act. However, any monies remaining in said fund at the end of the fiscal year ending August 31, 1937, are re-appropriated to the use of the Commissioner for the purpose of carrying out the provisions of this Act. Any unexpended balance or funds remaining in the "State Boiler Inspection Fund" at the end of the fiscal year ending August 31, 1938, not exceeding Ten Thousand Dollars (\$10,000) is hereby appropriated for the use of the Commissioner to carry out the purposes of this Act, and for each succeeding fiscal year any unexpended balance remaining in the "State Boiler Inspection Fund" not exceeding Ten Thousand Dollars (\$10,000) shall be carried forward for the purpose of the enforcement of this Act, provided, however any amount remaining in said fund in excess of Ten Thousand Dollars (\$10,000) at the end of any fiscal year after 1938 shall revert to the General Revenue Fund of the State of Texas.

Partial invalidity

Sec. 19. Should any section, subsection, sentence, clause, phrase, provision or exemption of this Act be declared unconstitutional or invalid for any reason such invalidity shall not affect the remaining portions or provisions hereof. [Acts 1937, 45th Leg., H.B. # 352.]

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Effective June 3, 1937.

Section 20 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for the inspection of steam boilers; defining certain terms; requiring a Certificate of Operation and registration of certain boilers; exempting certain boilers from the provisions of the Act; providing for appointment of an inspector of steam boilers and deputy inspectors; providing every insurance company insuring boilers in this State shall file certain reports showing policies of insurance and inspections with the Commissioner; providing that commissions as inspectors may be issued to certain persons; providing for promulgation of rules and regulations by the Commissioner of Labor covering the inspection and operation of steam boilers; providing for certain hearings; providing for collection of fees for boiler inspection; providing for publication of rules and regulations; providing for penalties for failure to comply with the provisions of this Act and rules enacted pursuant thereto; providing for injunction proceedings after notice; providing for clerical assistants and supplies; fixing salaries; creating a "State Boiler Inspec-

tion Fund" and appropriating the monies deposited in said Special Fund to pay the expenses of the administration of said Act; making an appropriation of Twenty Thousand Dollars (\$20,000), or so much thereof as may be necessary, out of the General Fund of the State of Texas for the purpose of paying expenses during the first year of the operation of said Act and providing for the refunding any amount expended out of said Twenty Thousand Dollars (\$20,000) appropriated to the General Fund out of fees collected during the first year of the administration of said law; appropriating any unexpended balance remaining in said Fund at the end of the fiscal year 1937, and appropriating any unexpended balance, not exceeding Ten Thousand Dollars (\$10,000) at the end of the fiscal year 1938, and appropriating any unexpended balance remaining in said Fund at the end of each succeeding fiscal year not to exceed Ten Thousand Dollars (\$10,000) for the purpose of enforcing the Act and providing that balances in excess of said Ten Thousand Dollars (\$10,000) at the end of the fiscal year 1938 shall be transferred and credited from such Special Fund to the General Fund of the State; providing a saving clause; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #352.]

TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE

2. FEDERAL USE

Art.

5244a. Municipal corporations and political subdivisions or districts; conveyances to United States in aid

of navigation, flood control, etc.; prior conveyances validated [New].

5248b. Granting easement to United States for Louisiana and Texas Intra-coastal Waterway [New].

2. FEDERAL USE

Art. 5244a. Municipal corporations and political subdivisions or districts; conveyances to United States in aid of navigation, flood control, etc.; prior conveyances validated

Section 1. When any County one or more of the boundaries of which is coincident with any part of the International Boundary between the United States and Mexico, or any County contiguous to any County of such described class, and when any City, Town, Independent School District, Common School District, Water Improvement District, Water Control and Improvement District, Navigation District, Road District, Levee District, Drainage District, or any other municipal corporation, political subdivision or District organized and existing under the Constitution and laws of this State, which may be located within any County of such described class, may be the owner of any property, land, or interest in land desired by the United States of America to enable any department or establishment thereof to carry out the provisions of any Act of Congress in aid of navigation, flood control, or improvement of water courses, and in order to accomplish the purposes specified in Article 5242 of the 1925 Revised Statutes of Texas, any such County, City, Town, or other mu-

municipal corporation, political subdivision, or District of this State is hereby authorized and empowered, upon request by the United States through its proper officers for conveyance of title or easement to any part of such property, land, or interest in land, which may be necessary for the construction, operation, and maintenance of such works, to convey the same with or without monetary consideration therefor to the United States of America, or to any other of the political subdivisions herein enumerated which by resolution of its governing body may have heretofore agreed or may hereafter agree to acquire and convey the same, for ultimate conveyance to the United States of America and all such conveyances heretofore made are hereby ratified and confirmed. Provided that nothing in this Act is intended, nor shall this Act cede any of the rights of the Arroyo-Colorado Navigation District of Cameron and Willacy Counties, which District was formed in 1927 under the Acts of the Thirty-ninth Legislature, from dredging, widening, straightening, or otherwise improving the Arroyo-Colorado and all other lakes, bays, streams or bodies of water within said Navigation District or adjacent or appurtenant thereto, as a Navigation Project or the construction of turning basins, yacht basins, port facilities, reserving to said District all rights conferred by law in developing said Navigation Project and all improvements incident, necessary or convenient thereto.

Sec. 2. If any section, word, phrase, or clause in this Act be declared unconstitutional for any reason, the remainder of this Act shall not be affected thereby. [Acts 1937, 45th Leg., S.B. # 223.]

Effective March 26, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize any County, one or more of the boundaries of which is coincident with any part of the International Boundary between the United States and Mexico, or any County contiguous to any County of such described class, and all Cities, Towns, Independent School Districts, Common School Districts, Water Improvement Districts, Water Control and Improvement Districts, Navigation Districts, Road Districts, Levee Districts, Drainage Districts, and all other municipal corporations, political subdivisions or Districts organized and existing under the Constitution and laws of this State, which may be located within any County of such described class, to convey to the United States of America with or without monetary consideration, upon request therefor, title or easement to property, lands, or interest in lands owned by such municipal corporations, political subdivisions or districts, to enable any department or establishment of the United States to carry

out the provisions of any Act of Congress in aid of navigation, flood control, or improvement of water courses, and in order to accomplish any and all of the purposes specified in Article 5242 of the 1925 Revised Statutes of Texas, and authorizing any and all such Counties, Cities, Towns, and other public municipal corporations and Districts above enumerated to convey with or without monetary consideration to any other of the political subdivisions herein enumerated which, by resolution of its governing body, may have heretofore or may hereafter agree to acquire and convey the same, for ultimate conveyance, to the United States of America; validating any such conveyance heretofore made by any such political subdivision; providing that nothing in this Act shall affect the rights of the Arroyo-Colorado Navigation District of Cameron and Willacy Counties in regard to the improving of the Arroyo-Colorado and other projects; providing that if any section, word, phrase, or clause in this Act be declared unconstitutional for any reason, the remainder of this Act shall not be affected thereby; and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 223.]

Art. 5248b. Granting easement to United States for Louisiana and Texas intracoastal waterway

Section 1. That there is hereby granted and conveyed to the United States of America the free and uninterrupted use, liberty, and easement to construct and maintain the Louisiana and Texas Intracoastal Waterway over and through disconnected portions of bays and any tidal lands owned by the State of Texas within an area three hundred (300) feet in width extending from the Galveston-Brazoria County line to the nine-foot con-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tour in Aransas Bay along the route of the projected Louisiana and Texas Intracoastal Waterway as shown in red on map, in four (4) sheets, prepared by the United States Engineer Office, Galveston, Texas, entitled "Louisiana and Texas Intracoastal Waterway, Survey of 1927-1928," Index Sheets Nos. 1, 2, 3, and 4, File No. 16-4-4, and the further free and uninterrupted use, liberty, and easement to deposit dredged material during construction and maintenance of the waterway in bays and on tidal lands owned by the State of Texas within two thousand (2,000) feet of the above described area, said portions of bays and tidal lands being located in Brazoria, Matagorda, Calhoun, and Aransas Counties.

Sec. 2. Provided, however, that should the United States of America fail or refuse to construct said Intracoastal Waterway prior to January 1, 1947, or should said Government cease to maintain or to have maintained said Intracoastal Waterway at any time, then this right of easement shall cease and determine, and all right of whatsoever nature shall revert and be vested in the State of Texas.

Sec. 3. Provided, further, that nothing in this Act shall be construed to affect or impair any vested rights. [Acts 1937, 45th Leg., H.B. # 1175.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act granting to the United States of America easement to construct and main-

tain the Louisiana and Texas Intracoastal Waterway over and through portions of bays and tidal lands owned by the State of Texas in Brazoria, Matagorda, Calhoun, and Aransas Counties; providing for a forfeiture; protecting vested rights; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1175.]

TITLE 86—LANDS—PUBLIC

CHAPTER TWO—SURVEYORS AND SURVEYS

2. COUNTY SURVEYORS

Art. 5285. [5308] [4076] Deputy

Each County Surveyor may appoint a Deputy Surveyor as he may deem necessary, and shall administer his official oath and take his bond in the sum of not less than Five Hundred Dollars (\$500) nor more than Ten Thousand Dollars (\$10,000), conditioned for the faithful performance of the duties of his office. The Deputy may do all acts authorized or required by law to be done by the County Surveyor. [As amended Acts 1937, 45th Leg., H.B. 125, § 1.]

Amendment of 1937, effective April 23, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency making the Act effective on and after its passage.

CHAPTER THREE—SURFACE AND TIMBER RIGHTS

2. SALES

Art.

5326f. Repurchase of land in Dallam and

Hartley Counties previously set aside for State Capitol Building [New].

2. SALES

Art. 5326f. Repurchase of land in Dallam and Hartley Counties previously set aside for state capitol building

Section 1. That where land heretofore set apart in Dallam and Hartley Counties, Texas, to build the Capitol Building of the State of Texas,

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that has been recovered by the State and appropriated as provided by law and heretofore purchased from the State, has been forfeited or is subject to being forfeited for nonpayment of interest and such lands in Block 76 in Loving County, Texas, not forfeited, reappraised, and repurchased under the provisions of Chapter 94, Page 267, Acts of 1925, as amended by the Acts of 1926, Thirty-ninth Legislature, First Called Session, Chapter 25,¹ Page 43, and/or principal accrued prior to the date of the passage of this Act, said lands shall be forfeited and reappraised by the State Land Commissioner, or his duly authorized agent, and that notice of the reappraisal shall be given to the former owner or owners, who shall have a preference of ninety (90) days after the date of notice to repurchase the same upon the terms and conditions provided in Chapter 94, Page 267, Acts of 1925, as amended by the Acts of 1926, Thirty-ninth Legislature, First Called Session, Chapter 25, Page 43. And provided further, that any person, or persons, owning any of such land which is not subject to being forfeited as now provided by law, may have the right, at his option, to have said land forfeited and reappraised in the same manner hereinabove provided and that he be given the same preference right to repurchase said land at the newly appraised value by the same method as hereinabove provided; provided that in repurchasing said land, all persons shall be given credit for all principal which has heretofore been paid upon said land and that when such person, or persons, has paid the amount of the new appraisal, he shall be entitled to a patent to said land from the State Land Commissioner as provided by law, and, provided that in no event shall any money heretofore paid on said land be refunded to any purchaser or purchasers of said land.

Sec. 1-a. When the Commissioner of the General Land Office has reappraised the above mentioned land, he shall submit a statement to the Governor and the Attorney General showing the valuation placed upon each separate tract and it shall be the duty of the Governor and the Attorney General to approve or disapprove the valuations placed upon said property and to advise the Commissioner of the General Land Office of such approval or disapproval of said valuations and if said valuations are approved by both the Governor and the Attorney General, the same shall be sold as above provided, but unless both the Governor and the Attorney General approve such valuations, no such sale shall be made.

Sec. 2. That any person wishing to repurchase any of said land against which any taxes of any nature are delinquent shall pay said taxes and any interest, penalties, and costs that may have accrued on said land and shall provide the Land Commissioner with a tax receipt showing said taxes to be paid, said taxes to be paid within the ninety (90) days provided in which time said person, or persons, are entitled to repurchase said land. [Acts 1937, 45th Leg., H.B. # 275.]

¹ Article 5326a.

Became law, without Governor's signature May 14, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for the repurchase of land located in Dallam and Hartley counties heretofore set apart to build the Capitol Building of the State of Texas, that has been recovered by the State, and repurchased as provided by the laws of this State and forfeited or that is subject to being forfeited for nonpayment of interest and certain lands in Block 76 in Loving County not forfeited, reappraised,

and repurchased under the terms and conditions provided in Chapter 94, Page 267, Acts of 1925, as amended by the Acts of 1926, Thirty-ninth Legislature, First Called Session, Chapter 25, Page 43, and/or principal accrued prior to the date of the passage of this Act, and giving a preference right to the owners of such lands or part thereof at any time within ninety (90) days after the date of notice of revaluation of such land to repurchase the same upon the terms and conditions provided in Chapter 94, Page 267, Acts of 1925, as amended by Acts of 1926, Thirty-ninth Legislature, First Called Session, Page 43, Chapter 25; and providing that any owner or owners of such land may ask that

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

such owner's or owners' land be forfeited as provided by law whether the same is delinquent or not and that he be allowed to repurchase said land at the price placed thereon by a new appraisal; providing for reappraisal of said land; and further providing for the payment of taxes on said land; providing the Commissioner of the General Land Office shall submit a

statement, showing the valuation placed upon each separate tract, to the Governor and the Attorney General which it shall be their duty to approve or disapprove and if approved by both, the same shall be sold as above provided; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #275].

CHAPTER FOUR—OIL AND GAS

4. GENERAL PROVISIONS

5382a. Camp Hulen Lease Board [New].

1. UNIVERSITY AND OTHER LANDS

Art. 5348. General provisions

For provisions covering the same subject matter, see Acts 1931, 42nd Leg., p. 452, ch. 271, as amended, set out as Article 5421c.

4. GENERAL PROVISIONS

Art. 5382a. Camp Hulen Lease Board

Section 1. A Board is hereby created to consist of the Governor of the State of Texas, the Adjutant General of the State of Texas, and the four senior active general officers of the Thirty-sixth Division, Texas National Guard, who shall perform the duties hereinafter set out. The Board shall be known as "Camp Hulen Lease Board". The term "Board" whenever used in this Act shall mean "Camp Hulen Lease Board". This Board shall keep a complete record of all of its proceedings. A majority of said Board shall constitute a quorum for the transaction of business.

Oil, gas, and mineral leases by Board authorized

Sec. 2. All lands, or any parcel of the same, now owned or that may be owned, and held in trust for the use and benefit of the Thirty-sixth Division, Texas National Guard, by the State of Texas, as a permanent camp site for the said Thirty-sixth Division, Texas National Guard, and those now owned and so held in trust at or near Palacios, Matagorda County, Texas, known as Camp Hulen, may be leased by the Board to any person or persons, firms or corporations, subject to and as provided for in this Act for the purpose of prospecting, or exploring for and mining, producing, storing, caring for, transporting, preserving, selling and disposing of the oil, gas and sulphur and other sub-surface minerals therein belonging to the State, and by it held in trust for the Thirty-sixth Division, Texas National Guard.

Surveys and subdivision of lands into lots, blocks, or tracts; Board authorized to perfect title

Sec. 3. The Board is hereby authorized to cause said lands to be surveyed and sub-divided into such lots, blocks or tracts as will be conducive or convenient to facilitate the advantageous sale of oil and gas and sulphur leases thereon, and identify such lots and blocks by permanent markings on the ground, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board is au-

thorized to obtain complete abstracts of title to such lands and to cause same to be examined, to take such steps by court action or otherwise, as it may deem necessary to perfect a merchantable title to such lands in the State of Texas, in trust for the use and benefit of the Thirty-sixth Division, Texas National Guard; such abstracts of title and other title papers shall be held on file in the General Land Office as public documents for the inspection of any prospective purchaser of oil and gas or sulphur or other sub-surface mineral leases on said lands.

Board to place oil, gas, and mineral leases on market when conditions favorable; mode of sale determined by Board; advertisement and notice; rejection of bids

Sec. 4. Whenever, in the opinion of the Board, there shall be such a demand for the purchase of oil, gas, and sulphur or other sub-surface mineral leases on any lot or tract of said land as will reasonably insure an advantageous sale thereof, the Board shall place such oil and gas or sulphur or other sub-surface mineral leases on the market in such blocks or tracts as the Board may designate. The Board shall have the power to determine whether said proposed sale or lease of said land shall be by public auction on the front steps of the State Capitol to the highest bidder or shall be by proposals submitted in the form of sealed bids for the purchase of said oil and gas or sulphur or other minerals by lease; provided, however, that said sale or lease in any event shall be only made after due advertisement thereof has been given in three daily papers of general circulation, published in the State of Texas, giving fifteen (15) days' notice of the proposed sale or lease of said lands, and giving a brief description of said land proposed to be leased for oil, gas, sulphur or mineral purposes. That where said land is to be sold under sealed bids for development by lease, said notice shall designate the day when sealed bids will be opened at ten o'clock A. M. on that day. The Board may in its discretion, in addition to said advertisement in newspapers, cause such other additional advertisements to be made as they might deem advantageous. Provided, further, that the Board shall have the right to reject any and all bids.

Scaled bids

Sec. 5. That where said land is to be leased for oil, gas or sulphur or other mineral development under sealed bids, all bids shall be directed to the said Board in care of the General Land Office of the State of Texas, and shall be retained by the Commissioner of the General Land Office until the day designated for the opening of bids, and upon that day the said Board, or a majority of its members, shall open said bids and shall list, file and register all bids and money received. A separate bid shall be made for each whole survey or sub-division thereof. No bid shall be accepted which offers a royalty of less than one-eighth ($1/8$) of the gross production of oil, gas, or sulphur in the land bid upon, and this minimum royalty may be increased at the discretion of the Board, two-thirds of the members concurring before the promulgation of the advertisement of the land. Every bid shall carry the obligation to pay an amount not less than One (\$1.00) Dollar annually per acre for delay in drilling, such amount to be fixed by the Board in advance of the advertisement, and which shall be paid every year for five years unless in the meantime production in paying quantities is had upon the land.

Drilling and production operations subject to State laws and orders of Railroad Commission; provision to be incorporated in lease

Sec. 5a. The operations for drilling for oil and gas and the production therefrom under any lease made by the Board under the authority given in this Act shall be subject to all laws of the State of Texas and

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valid orders made by the Railroad Commission of Texas under such laws regulating and controlling the development of leases for the production of oil and gas, and the production of oil and gas therefrom. The Board shall incorporate this provision in each and every lease executed under the authority of this Act.

Bid to be accompanied by payment and indicate royalty and additional payments

Sec. 6. Every bid shall be accompanied by a payment equal to the minimum price fixed on the land per acre for delay in drilling if the bid is accepted. The bid shall further indicate the royalty the bidder is willing to pay, which royalty shall not be less than one-eighth (1/8) of the gross production. The bid shall further name such amount as the bidder may be willing to pay in addition to the royalty and the annual payment provided for, and shall be accompanied by cash or checks collectable in Austin to cover said amounts.

Leasing to be consistent with use of camp for annual field training; rejection of bids and new offer to lease

Sec. 7. If any one of the bidders shall offer a reasonable and proper price therefor, not less than the price fixed by the Board, the lands advertised, or any whole survey or sub-division thereof, may be leased for oil, gas, sulphur or other mineral purposes under the terms of this Act and such regulations as the Board may prescribe, which are in the opinion of the Board not inconsistent with the use of said lands for the annual field training of the Thirty-sixth Division, Texas National Guard, and are not inconsistent with the provisions of this Act. If after any bidding by sealed bids, the Board should reject all bids as it is hereby authorized to do, it may thereafter offer for sale, and sell the oil, gas, sulphur or other minerals in the land in separate whole surveys, or sub-divisions thereof, by open public auction, or in such other manner as said Board may deem to be desirable.

Satisfactory bid filed in General Land Office; discontinuance of yearly payment; termination of lease

Sec. 8. If the Board shall determine that a satisfactory bid has been received for said oil, gas, sulphur, or other minerals, it shall be filed in the General Land Office. Whenever the royalty shall amount to as much as the yearly payment as fixed by the Board, the yearly payment may be discontinued. If before the expiration of five years, oil, gas, sulphur or other minerals, shall not have been produced in paying quantities, the lease shall terminate.

Sale of oil, gas, or minerals by public auction

Sec. 9. The Board may at its option, offer for sale and sell the oil, gas, sulphur, or other minerals, in said lands by open public auction on the front steps of the State Capitol in lieu of the method of selling said oil, gas, sulphur or other minerals by sealed bids. Where oil, gas, sulphur or other minerals in said lands is to be sold at public auction, the Board shall cause to be advertised a brief description of the land from which the oil, gas, sulphur or other minerals is proposed to be sold, fixing a designated day and hour for said sale at the State Capitol steps at Austin, Texas. Whenever any sale of the oil, gas, sulphur or other minerals is to be made at public auction, the Board prior to the promulgation of its advertising, shall fix a minimum price at which oil, gas, sulphur, or other minerals in such land shall be sold, not less than one-eighth (1/8) of the gross production of gas, oil, sulphur or other minerals in

the land proposed to be sold and in an amount of not less than One Dollar per acre for annual rental for delay in drilling. That all leases shall terminate after a period of five years unless production in paying quantities is had upon the land within said period. That no auctioneer, or person acting in said capacity, shall be paid a fee for the sale of said minerals in said lands in excess of One Hundred (\$100.00) Dollars per day. The successful bidder at public auction shall be required to immediately post with the Board in cash or by check payable in Austin, Texas, as evidence of good faith, the amount of his bid, being the amount of bonus and the one payment of annual rental in advance for delay in drilling.

Rentals not payable during drilling operations preceding discovery of oil, gas, or minerals; duration of lease; duty to develop and prevent drainage; penalty

Sec. 10. If during the time of any lease issued under the terms of this Act, the lessee shall be engaged in actual drilling operations for the discovery of oil, gas, sulphur or other minerals on land covered by any such lease, no rental shall be payable as to the tract on which such operations are being conducted so long as such operations are proceeding in good faith; and in the event oil, gas, sulphur or other minerals are discovered in paying quantities on any tract of land covered by any such lease, then the lease as to such tract shall remain in force so long as gas, oil, sulphur or other minerals are produced in paying quantities from such tract. In the event of the discovery of oil, gas, sulphur or other minerals on any tract covered by any such lease, then the lease as to such tract shall remain in force so long as oil, gas, sulphur or other minerals are produced in paying quantities from such tract. In the event of the discovery of oil, gas, sulphur or other minerals on any tract covered by a lease issued hereunder, or on any land adjoining same, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract from such lease and to properly develop the same. Failure to comply with the obligations provided by this section shall subject the holder of the lease to the penalties provided in Sections 12 and 13 of this Act.

Title to rights purchased; assignment of rights; relinquishment of rights; pipe lines, telephone lines, and roads

Sec. 11. Title to all rights purchased may be held by the owner so long as the area produces oil, gas, sulphur or other minerals in paying quantities. All rights purchased may be assigned in quantities of not less than forty (40) acres unless there be less than forty (40) acres remaining in any survey or tract, in which case such lesser area may be so assigned. All assignments shall be filed in the General Land Office within one hundred (100) days after the date of the first acknowledgment thereof accompanied by Ten (10¢) Cents per acre for each acre assigned, and if not so filed and payment made, the assignment shall be ineffective. All rights to any whole survey and to any assigned portion thereof may be relinquished to the State in trust for the Thirty-sixth Division, Texas National Guard, at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and filed in the Land Office accompanied by One (\$1.00) Dollar for each area assigned, but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon. The Board shall authorize the laying of pipe lines, telephone lines and the opening of such roads as may by it be deemed reasonably necessary for and incident to the purposes of the lease.

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Royalty, payment for use of National Guard Division; time of payment; sworn statement; books and records filed and subject to inspection

Sec. 12. Royalty as stipulated in the sale and in all leases on said land and all other moneys accruing or arising from the effects of this bill or the operations of the Board shall be paid to the General Land Office, Austin, Texas, for the exclusive use and benefit of the Thirty-sixth Division, Texas National Guard, on or before the 20th day of each succeeding month, for the preceding month during the life of the rights purchased, and it shall be accompanied by the sworn statement of the owner, mahager or other authorized agent showing the gross amount of oil produced and saved since the last report, and the amount of gas produced and sold off the premises and the market value of the oil and gas, or in the case of sulphur, or other minerals, the amount produced and sold and the market price therefor, together with all gauges of tanks, gas meter readings, pipe line receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipe lines, tanks or pools and gas lines or gas storage and/or sulphur vats or sulphur or other minerals storage. The books and accounts and all bids, receipts and discharges of all wells, tank pools, meters, pipe lines and vats and other storage and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil, gas, sulphur or other minerals shall at all times be on file in the General Land Office and be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, the Governor or any member of the Board.

Protection of leased land from drainage or depletion from adjacent lands; effect of failure to protect

Sec. 13. In every case where the area in which oil, gas, sulphur or other minerals are sold shall be contiguous or adjacent to land that is not within the area known as Camp Hulen land, the acceptance of the bid and the sale thereof will carry with it the obligation to adequately protect the land leased from drainage or depletion from the adjacent lands. In cases where the area in which the oil, gas, sulphur or other minerals are sold as a lesser royalty, the owner shall likewise protect the State and the Thirty-sixth Division, Texas National Guard, from drainage or depletion from the land so leased or sold for lesser royalty. Upon failure to protect the land from drainage as herein provided, the sale and all rights thereunder may be forfeited by the Board as elsewhere provided herein for forfeiture.

Forfeiture for default; suit to declare; reinstatement of lease; suit for damages; lien to secure payments under lease

Sec. 14. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due thereon, either as rental or royalty on the production, within thirty days after same shall become due, or if such owner, or his authorized agent, should make any false return, or false report concerning production, royalty or drilling, or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority access to other records and other data pertaining to operations under this Act, or if such owner or his authorized agent should fail or refuse to give correct information to the proper authority, or fail or refuse to furnish the log of any well within thirty days after completion or abandonment or cessation of work for thirty days, or if any material terms of the lease should be violated, such lease shall be subject to forfeiture by the Board, by an order entered upon the minutes of the Board, reciting the facts constituting the default and

declaring the forfeiture. The Board may, if it so desires, have a suit instituted for forfeiture through the Attorney General of the State who shall be the legal adviser and attorney for the Board. Upon proper showing by the forfeiting owner, within thirty days after the declaration of forfeiture, the lease may, at the discretion of the Board, and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State, acting for the benefit of the Thirty-sixth Division, Texas National Guard, by forfeiture shall not be the exclusive remedy, but suit for damages or specific performance or both, may be instituted. The State, for the use and benefit of the Thirty-sixth Division, Texas National Guard, shall have a first lien upon all oil, gas, sulphur or other minerals produced upon the leased area and upon all rights, tanks, pipe lines, telephone lines, machinery and other material and appliances used in the production and handling of oil, gas, sulphur or other minerals produced thereon to secure any amount due thereon by the owner of said lease.

Surveys, files, contracts, and records filed in General Land Office; payments of bonus, rentals and royalties; deposit and expenditure by Board

Sec. 15. All surveys, files, records, copies of sale and lease contracts, and all other records pertaining to the sales and leases hereby authorized, shall be filed in the General Land Office and shall constitute archives thereof. All payments of bonus, rentals and royalties hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall deposit said money with the State Treasurer in a special fund for the exclusive use and benefit of the Thirty-sixth Division, Texas National Guard, and all other payments, including filing assignments and relinquishment fees hereunder shall be credited to said fund; and said funds may be expended only upon the order of said Board for such purposes as may be deemed by said Board to be for the benefit of the Thirty-sixth Division, Texas National Guard, and the costs and expenses of administration of and under this Act, and none other.

Warrants to pay expenses; appropriation

Sec. 16. The expenses of executing the provisions of this Act shall be paid by warrants authorized by the Board and drawn by the State Comptroller on the State Treasury, and shall be paid by the State Treasurer out of the following appropriation, and for that purpose the sum of Two Thousand (\$2,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, for the biennium ending August 31, 1938.

Forms, rules, and regulations of Board; withdrawal of lands advertised

Sec. 17. The Board shall adopt proper forms and regulations, rules and contracts as will, in its judgment, protect the income from the lands leased hereunder, and for the use and expenditure of such incomes for the exclusive use and benefit of the Thirty-sixth Division, Texas National Guard. The Board shall have the right to withdraw any lands advertised for lease prior to receiving and opening of bids, and prior to the sale at public auction. [Acts 1937, 45th Leg., S.B. # 504.]

Effective May 15, 1937.

Section 18 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act creating a Board for the lease of the land composing the permanent en-

campment for the Thirty-sixth Division, Texas National Guard, known as Camp Hulen, situated at or near Palacios in Matagorda County, Texas, and providing for the lease or sale of oil and gas and sulphur and other minerals therein and defining the duties and powers of said

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Board; prescribing the mode and manner of leasing and selling oil, gas and sulphur in said lands, and the disposition to be made of the proceeds of such sales; making an appropriation to defray the expenses of enforcing this Act; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #504.]

CHAPTER FIVE—MINERALS

2. OTHER MINERALS

Art.

5400a. Political subdivisions authorized to lease land for mineral development [New].

2. OTHER MINERALS

Art. 5400a. Political subdivisions authorized to lease land for mineral development

Section 1. Political subdivisions which are bodies corporate with recognized and defined areas, are hereby authorized to lease for mineral development purposes any and all lands which may be owned by any such political subdivision.

Boards or bodies authorized to exercise right; procedure

Sec. 2. The right to lease such lands shall be exercised by the governing board, the commission or commissioners of such political subdivision which are by law constituted with the management, control, and supervision of such subdivision, and when in the discretion of such governing body they shall determine that it is advisable to make a lease of any such lands belonging to such district or subdivision, such governing body shall give notice of its intention to lease such lands, describing same, by publication of such notice in some newspaper published in the county, having a general circulation therein, once a week for a period of three (3) consecutive weeks, designating the time and place after such publication where such governing body will receive and consider bids for such mineral leases as such governing body may determine to make. On the date specified in said notice, such governing board or body shall receive and consider any and all bids submitted for the leasing of said lands or any portions thereof which are advertised for leasing, and in the discretion of such governing body shall award the lease to the highest and best bidder submitting a bid therefor, provided that if in the judgment of such governing body the bids submitted do not represent the fair value of such leases, such governing body in their discretion may reject same and again give notice and call for additional bids, but no leases shall in any event be made except upon public hearing and consideration of said bids and after the notice as herein provided.

Public auction; amount of royalty; term of lease

Sec. 2a. Provided that all such leases may be granted by public auction and that no leases shall be executed in any case except and unless the lessor shall retain at least one-eighth royalty, provided further that in no case shall the primary term of said lease be for more than a period of ten (10) years from the date of execution and approval thereof. [Acts 1937, 45th Leg., H.B. # 861.]

Effective May 5, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing political subdivisions of the State of Texas to lease lands owned by such subdivisions for mineral develop-

ment purposes and prescribing the method and manner of making such leases, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #861.]

TITLE 87—LEGISLATURE

Art.

5429a. Witnesses before legislature or committees thereof; oaths of witnesses [New].

Art. 5429a. Witnesses before legislature or committees thereof; oaths of witnesses

Section 1. The President of the Senate, the Speaker of the House of Representatives, or a chairman of a Committee of the Whole, or of any Committee of either House of the Legislature, is empowered to administer oaths to witnesses in any case under their examination. Any member of either House of the Legislature may administer oaths to witnesses in any matter pending in either House of the Legislature of which he is a member, or any Committee thereof.

Refusal of witnesses to testify

Sec. 2. Every person who having been summoned as a witness by the authority of either House of the Legislature, to give testimony or to produce papers upon any matter under inquiry before either House, or any Committee of either House of the Legislature, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than One Thousand (\$1,000.00) Dollars nor less than One Hundred (\$100.00) Dollars, and imprisonment in jail for not less than thirty days nor more than twelve months.

Privilege of witnesses

Sec. 3. No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he shall be examined by either House of the Legislature, or by any Committee of either House, upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous. Any person called upon to testify or to give testimony or to produce papers upon any matter under inquiry before either House or in the Committee of either House of the Legislature or Joint Committee of both Houses, who refuses to testify, give testimony or produce papers upon any matter under inquiry upon the ground that his testimony or the production of papers would incriminate him, or tend to incriminate him, shall nevertheless be required to testify and to produce papers, but when so required, over his objections for the reasons above set forth, such person shall not be subject to indictment or prosecution for any transaction, matter or thing concerning which he truthfully testified or produces evidence, documentary or otherwise.

Witnesses failing to testify

Sec. 4. Whenever a witness summoned as mentioned in Section 2 hereof shall fail to testify, and the facts are reported to either House of the Legislature, the President of the Senate or the Speaker of the House, as the case may be, shall certify the fact under the seal of the Senate or the House of Representatives to the District Attorney of Travis County, Texas, whose duty it shall be to bring the matter before the grand jury for their action.

Witnesses failing to testify or produce records

Sec. 5. Whenever a witness summoned as mentioned in Section 2 hereof shall fail to appear to testify or fails to produce any books, papers, records, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House or any Committee or Sub-Committee of either House of the Legislature, and the fact of such failure or failures is reported to either House while the Legislature is in session, or when the Legislature is not in session, a statement of facts constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the District Attorney of Travis County, Texas, whose duty it shall be to bring the matter before the grand jury for its action. [Acts 1937, 45th Leg., S.B. # 359.]

Effective March 12, 1937.

Section 6 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the administration of oaths to witnesses by the President of the Senate or the Speaker of the House of Representatives, Chairman of a Committee of the Whole or of any Committee of either or both Houses of the Legislature, or any member thereof, by any member of either House in a matter pending before either House of which he is a member, or any Committee thereof; refusal of any witness to testify to constitute a misdemeanor, and providing a penalty; pro-

viding for privilege of witnesses; providing for certification of failure to testify to the District Attorney of Travis County, Texas by the chairman of any Investigating Committee appointed by either House of the Legislature or Joint Committee thereof; and providing for the presentation of such certification to the grand jury; providing for punishment for failure to produce books, papers, records or documents required by either House of the Legislature or any Committee thereof or Joint Committee thereof; providing for punishment when neither House is in session; and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 359.]

TITLE 90—LIENS**CHAPTER ONE—JUDGMENT LIENS****Art. 5449. [5516-7] Lien of judgment**

When any judgment has been so recorded and indexed, whether it be the first or a subsequent abstract of said judgment, it shall, from the date of such record and index, if said judgment is not then dormant, operate as a lien upon all of the real estate of the defendant situated in the county where such record and index are made, and upon all real estate which the defendant may thereafter acquire, situated in said county. Said lien shall continue for ten (10) years from the date of such record and index, except that if during said ten-year period the judgment becomes dormant said lien shall thereupon cease to exist, provided, that the lien of any judgment so recorded and indexed prior to the effective date of this Act, if then valid, shall continue for ten (10) years from the effective date of this Act, except that if during said ten (10) years the judgment becomes dormant said lien shall thereupon cease to exist. [As amended Acts 1935, 44th Leg., p. 685, ch. 291, § 1; Acts 1937, 45th Leg., H.B. #625, § 1.]

Amendment of 1937, effective May 5, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

CHAPTER FIVE—FARM, FACTORY AND STORE OPERATIVES

Art. 5483. [5644] Lien prescribed

Whenever any clerk, accountant, bookkeeper, waiter, waitress, cook, maid, porter, servant, employee, artisan, craftsman, factory operator, mill operator, mechanic, quarryman, common laborer, farm hand, male or female, may labor or perform any service in any office, store, hotel, rooming house, boarding house, restaurant, cafe, shop, factory, mine, quarry or mill of any character, or perform any service in the cutting, preparation, hauling, handling, or transporting to any mill or other point for sale, manufacture or other disposition, logs or timber, or perform any service upon any wagon, cart, tram, or railroad, or other means or methods of transporting such logs or timber, and in the construction or maintenance of such tram or railroad, constructed or used for the transportation of logs or timber to or for such mills to its owner or operator, or to points for sale, shipment or other disposition, or any farm hands, under or by virtue of any contract or agreement, written or verbal, with any person, employer, firm or corporation, or his, her, or their agent, receiver or trustee, in order to secure the payment of the amount due or owing under such contract or agreement, written or verbal, the hereinbefore mentioned employees shall have a first lien upon all products, machinery, tools, fixtures, appurtenances, goods, wares, merchandise, chattels, wagons, carts, tram roads, railroads, rolling stock and appurtenances or thing or things of value of whatsoever character that may be created in whole or in part by the labor or that may be used or useful by such person or persons or necessarily connected with the performance of such labor or service, which may be owned by or in the possession or under the control of the aforesaid employer, person, firm, corporation, or his or their agent or agents, receiver or receivers, trustee or trustees; provided, that the lien herein given to a farm hand shall be subordinate to the landlord's lien provided by law. [As amended, Acts 1937, 45th Leg., S.B. # 164, § 1.]

Effective June 9, 1937.

Section 3 of the amendatory Act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

Art. 5486. [5645] Liens, how fixed

Whenever any person, employer, firm, corporation, his, her or their agent or agents, receiver or receivers, trustee or trustees, shall fail or refuse to make payments as hereinafter prescribed in this law, the said clerk, accountant, bookkeeper, waiter, waitress, cook, maid, porter, servant, employee, farm hand, artisan, craftsman, operative, mechanic, quarryman, or laborer, who shall have performed service of any character, shall make or have made duplicate accounts of such service, with amount due him or her for the same, and present, or have presented, to aforesaid employer, person, firm or corporation, his, her, or their agent or agents, receiver or receivers, trustee or trustees, one of the aforesaid duplicate accounts within thirty (30) days after the said indebtedness shall have accrued. The other of the said duplicate accounts shall, within the time hereinbefore prescribed, be filed with the county clerk of the county in which said service was rendered, and shall be recorded by the county clerk in a book kept for that purpose. The party or parties presenting the aforesaid account shall make affidavit as to the correctness of the same. A compliance with the foregoing requirements in this Article shall be necessary to fix and preserve the lien given under this law; and the liens of different persons shall take precedence in the order in which they are filed; provided, that all persons claiming the benefit of this law shall have six months within which to bring suit to foreclose the aforesaid

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lien; and provided, further, that a substantial compliance with the provisions of this Article shall be deemed sufficient diligence to fix and secure the lien hereinbefore given; provided, that any purchaser of such products from the owner thereof shall acquire a good title thereto, unless he has at the time of the purchase actual or constructive notice of the claim of such lienholder upon such products, said constructive notice to be given by record of such claim, as provided for in this law, or by suit filed. [As amended, Acts 1937, 45th Leg., S.B. # 164, § 2.]

Effective June 9, 1937.

CHAPTER SEVEN—OTHER LIENS

Art.

5506b. Lien for repairing, altering, dyeing, cleaning, or pressing wearing apparel [New].

Art. 5506b. Lien for repairing, altering, dyeing, cleaning, or pressing, wearing apparel

Section 1. Whenever any article of wearing apparel or garment shall be left with any person, firm, or corporation for the purpose of being repaired, altered, dyed, cleaned, or pressed, or laundered, such person, firm, or corporation is authorized to retain possession of said wearing apparel or garment until the amount due on same for repairing, altering, dyeing, cleaning, pressing, or laundering by contract shall be fully paid off and discharged. In case no amount is agreed upon by contract, then said person, firm, or corporation shall retain possession of such wearing apparel or garment until all reasonable, customary, and usual compensation shall be paid in full.

Sale of property

Sec. 2. When possession of any of the articles of wearing apparel or garments embraced in the preceding Article has continued for sixty (60) days after the charges accrue, and the charges so due have not been paid, it shall be the duty of the persons so holding said wearing apparel or garments to notify the owner, if in the State and his residence be known, to come forward and pay the charges due, and on his failure within ten (10) days after such notice has been given him to pay said charges, the persons so holding said wearing apparel or garments, after twenty (20) days notice, are authorized to sell said wearing apparel and garments at public or private sale and apply the proceeds to the payment of said charges, including a reasonable cost incurred in holding said sale, and shall pay over the balance to the person entitled to the same. If the owner's residence is beyond the State or is unknown, the person holding said wearing apparel or garments shall not be required to give such notice before proceeding to sell.

Unclaimed proceeds

Sec. 3. If the person who is legally entitled to receive the balance mentioned in this Chapter is not known, or has removed from the State or from the county in which such repairing, altering, dyeing, cleaning, pressing, or laundering was done, or such wearing apparel or garments were so held, the person, firm, or corporation so holding said property shall pay the balance to the County Treasurer of the county in which said articles of wearing apparel or garments are held and take his receipt therefor. Whenever such balance shall remain in the possession of the County Treasurer for the period of two (2) years unclaimed by the party legally entitled to same, such balance shall become a part of the General Fund

of the county in which the articles of wearing apparel or garments were sold. [Acts 1937, 45th Leg., H.B. # 713.]

Effective June 8, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide liens for services rendered by persons, firms, and corporations

with whom articles of wearing apparel and garments have been placed to be repaired, altered, dyed, cleaned, or pressed, or laundered and authorizing the sale thereof to pay charges for such services, and for the disposition of proceeds of such sales; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #713.]

TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF

Art.

5561a. Apprehension, arrest, and trial of persons not charged with criminal offense; information; warrant; notice of hearing [New].

Art. 5550. [153] Cause docketed, etc.

The cause shall be docketed on the probate docket of the Court in the name of the State of Texas as plaintiff, and the person charged to be insane as defendant. The County Attorney or the District Attorney in counties having no County Attorney, shall appear and represent the State on the hearing, and the defendant shall also be entitled to counsel; and in proper cases the County Judge may appoint counsel for that purpose.

In cases in which the County Judge may deem it necessary to appoint counsel for the defendant, such appointment shall be noted upon the docket giving the name of the attorney so appointed, and in cases in which the County Judge deems it necessary a fee may be allowed to counsel for the defendant in such sum as may be fixed by the County Judge, and noted on the docket, in an amount not to exceed Five Dollars (\$5.00), to be taxed as costs in the case. [As amended Acts 1937, 45th Leg., S.B. # 216, § 1.]

Amendment of 1937, effective June 8, 1937.

Section 2 repeals all conflicting laws and

parts of laws. Section 3 declared an emergency and provided that the act should take effect from and after its passage.

Art. 5559. Record of proceedings and notice

Only the judgments which are rendered in lunacy proceedings by the County Court, or by the Judge thereof, shall be required to be entered in the minutes of such Court by the County Clerk, and such Clerk shall not be required to enter any other proceedings in said minutes. Before any patient is sent to any asylum or is delivered to the United States for care and treatment as provided by Articles 5554 and 5557 of the Revised Civil Statutes of Texas, the County Judge shall cause a complete transcript of the proceedings to be made up and certified by the Clerk of the County Court under the seal of said Court, which transcript shall be forwarded by said Clerk to the superintendent of the asylum or to the medical officer in charge of the United States Government hospital to which such patient may be sent. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #129, § 1.]

Effective 90 days after Oct. 26, 1937, date of adjournment.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of

laws; section 3 declared an emergency and provided that the Act should take effect from and after its passage.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 5561a. Apprehension, arrest, and trial of persons not charged with criminal offense; information; warrant; notice of hearing

Section 1. If information in writing under oath be given to any county judge that any person in his county, not charged with a criminal offense, is a person of unsound mind, and that the welfare of either such person or any other person or persons requires that he be placed under restraint, and such county judge shall believe such information to be true, he shall forthwith issue a warrant for the apprehension of such person, or, if such like information be given to any justice of the peace in such county, said justice may issue a warrant for the apprehension of said person, making said complaint and warrant returnable to the county court of said county, and said county judge in either event shall fix a time and place for the hearing and determination of the matter, either in term time or in vacation, which place shall be either at the court house of the county, or at the residence of the person named, or at any other place in the county, as the county judge may deem best for such hearing. Notice of the time, place and purpose of such hearing shall be served upon the person charged, such notice to be under the hand and seal of the county clerk of said county, and served and returned by the sheriff or a constable of such county, and the return to state the time and place of service. Such notice shall be served not less than three days prior to the day of hearing.

Warrant, form and requisites of

Sec. 2. The warrant provided for herein shall run in the name of "The State of Texas", and shall be directed to the sheriff or any constable of the county, and the officer receiving same shall forthwith take into custody the person named therein, and at the designated time and place shall have him and the return of said warrant before the county judge for examination and trial.

Jury summoned

Sec. 3. At the time of issuing the warrant mentioned in the preceding sections, or upon receipt of the complaint from the justice of the peace, the county judge shall issue an order to the sheriff or any constable directing him to summon a jury of six competent jurors of the county to be and appear before such judge at the time and place designated in said order for the purpose of hearing and determining the issues to be submitted in said matter.

Restoration of sanity; procedure; effect of findings; costs

Sec. 4. Upon the filing in the county court in which a person was convicted or in the county court of the county in which a person is located at the time he is alleged to have had his right mind restored, information in writing and under oath made by a physician legally licensed to practice medicine in Texas, that a person not charged with a criminal offense, who has been adjudged to be of unsound mind, has been restored to his right mind, the judge of said court shall forthwith, either in term time or vacation order said person brought before him by the sheriff of the county and if said issue be in doubt said judge shall cause a jury to be summoned and impaneled in the same manner as is provided for in Section 3 hereof and shall proceed to the trial of said issue, or if there appears no doubt as to said issue, said judge may try the same without the intervention of a jury, and if said person shall be found to be of sound mind, a judgment shall be entered upon the minutes of said court reciting and adjudging such fact and said person shall, if then under restraint, be immediately discharged, or in the event he shall be found to be still of unsound mind, he shall be returned by the county court to the place of re-

straint from which he had been previously ordered, and the original order of commitment shall continue in full force and effect. All costs of proceedings of restoration shall be paid by the county.

Provisions cumulative

Sec. 5. This Act shall be cumulative of Articles 5550 to 5561 inclusive of Title 92, Revised Civil Statutes of the State of Texas, 1925 revision.

Validation of proceedings, judgments, and orders

Sec. 6. All actions, proceedings, judgments and orders made and entered by any probate or county court of this State pursuant to which any person has been adjudged insane and committed to a state hospital for the insane, are hereby validated and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Contracts and conveyances by persons subsequently adjudged incompetent

Sec. 7. A contract valid on its face, made with, or likewise a conveyance made by a person, who at the time has not been legally adjudged to be of unsound mind, or otherwise incompetent, and who is subsequently shown to have been insane, or otherwise incompetent, at the time of the execution of such contract or conveyance, shall not be set aside or avoided where any such contract or conveyance has been executed in good faith in whole or in part, and was entered into in good faith and without fraud or imposition and for a valuable consideration, without notice of such infirmity, unless the parties to such contract or conveyance shall have been first equitably restored to their original position. The provisions of this Article shall not apply in cases where one of the parties to any such contract or conveyance is insane, and has been so adjudged by a court of competent jurisdiction prior to the date of such contract or conveyance.

Pending proceedings or actions unaffected; partial invalidity

Sec. 8. This Act shall not affect any proceedings or action pending in any court, of competent jurisdiction, on the effective date hereof and any such pending proceedings or action shall be determined in accordance with pre-existing law.

Unconstitutionality

Sec. 9. In the event any section, subdivision, paragraph, or sentence of this Act shall be declared unconstitutional or void, the validity of the remainder of this Act shall not be affected thereby; and it is hereby declared to be the policy and intent of the Legislature to enact the valid portions of this Act, notwithstanding any invalid portions. [Acts 1937, 45th Leg., S.B. # 259.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 10 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the apprehension, arrest and trial of persons not charged with criminal offense, alleged to be of unsound mind, by filing of information under oath before a county judge or justice of the peace, and the issuance of a warrant of arrest thereon and return thereof to the county judge; providing for the setting of a time and place for the hearing of said complaint and for notice thereof to such per-

sons; providing for the summoning of a jury to hear and determine the issues to be submitted in said cause; providing for a procedure for determining and adjudicating the restoration to sound mind; providing for the protection of those dealing with persons of unsound mind who have not been so adjudicated; providing this Act shall not affect any pending court action or proceeding, and that if any section, clause, or provision of this Act shall be declared to be invalid, such holding shall not affect any other section, clause, or provision hereof; providing that this Act shall be cumulative of Articles 5550 to 5561, both Articles inclusive, of the 1925 Revised Civ-

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il Statutes of Texas; and validating proceedings, orders, and judgments of county or probate courts adjudging certain persons to be of unsound mind, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #259.]

TITLE 93—MARKETS AND WAREHOUSES

Chap.

9. Marketing Agreements [New].

CHAPTER NINE—MARKETING AGREEMENTS [NEW]

Art.

5764a. Citrus marketing agreements; purpose of Act.

Art. 5764a. Citrus marketing agreements; purpose of act

Section 1. The unreasonable waste and inefficient use of the citrus resources, occasioned by the marketing within the State of Texas of greater quantities of fresh citrus fruits than are reasonably necessary to supply the demands of the market, are opposed to public interest. The difficulty inherent in any attempt of individuals to correlate within a reasonable degree the citrus production current demand creates chaotic economic conditions in the citrus areas of the State as defined in this Act of such severity as to imperil the ability of citrus producers to contribute in appropriate amounts to the support of ordinary governmental and educational functions, thus tending to increase, and increasing the tax burdens of other taxpayers for the same purposes, and is rendering it impossible for producers to be reasonably assured of adequate standard of living for themselves and their families. In the interest of the public welfare and general prosperity of the State, the unreasonable waste and inefficient use of citrus resources involved in the marketing in this State of citrus fruits should be eliminated, while at the same time preserving to citrus producers of the areas covered by this Act an equality of opportunity.

Definitions

Sec. 2. As used in this Act, the following terms shall mean:

(a). "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(b). "Person" means individual, partnership, corporation, association, and/or any other business unit.

(c). "Producer" means any person engaged in the production of citrus fruits in the State of Texas for commercial purposes, or who is a substantial stockholder in a corporation engaged in the production of citrus fruits in the State of Texas for commercial purposes.

(d). "Handler" means any person who packs or ships citrus fruits, or causes citrus fruits to be packed or shipped in the current of intrastate commerce so as not to directly burden, obstruct, or affect interstate and/or foreign commerce.

(e). "Ship" means to convey citrus fruits, or cause citrus fruits to be conveyed, in the current of intrastate commerce, by rail, boat, truck, or any other means whatsoever (except by express or parcel post), whether as owner, agent, or otherwise.

(f). "Shipment" shall be deemed to take place when citrus fruits, or citrus fruit, is loaded into a car, or any other conveyance for transportation in the current of intrastate commerce.

(g). "Citrus fruits" or "citrus fruit" means grapefruit, oranges, and tangerines grown in the area of Texas covered by this Act.

(h). "Variety" or "varieties" as used in this Act means classifications or groups in the case of oranges as follows: (a) early season oranges, and (b) valencias, including all varieties of valencias and Lou Gim Gongs; in the case of grapefruit as follows: (a) Marsh and other seedless varieties except pinks, (b) Duncan and other seeded varieties except pinks, (c) pinks of the seeded type, and (d) pinks of the seedless type. All tangerines and temple oranges are grouped together as one variety.

(i) "Intrastate commerce," as used in this Act, means all commerce other than that which is in the current of interstate or foreign commerce, or which directly burdens, affects, or obstructs interstate or foreign commerce.

(j). "Standard packed box" as used in this Act means a unit of measure equivalent to one and three-fifths (1-3/5) U. S. bushels of citrus fruit, irrespective of the container in which same is held.

Marketing agreements and licenses as to intrastate transactions

Sec. 3. Subject to the provisions of this Act, the Commissioner is hereby authorized and empowered to execute marketing agreements and to issue licenses under this Act to persons engaged in transactions of intrastate commerce within the areas of this State in the marketing, processing, packing, shipping, handling, or distributing of citrus fruits.

Notice of hearing; procedure

Sec. 4. Whenever the Commissioner has reason to believe that the execution of a marketing agreement or the issuance of a license, or both, will tend to effectuate the declared policy of this Act with respect to citrus fruits, he shall, either upon his own motion, or upon application of any producer or handler of such commodity give due notice of, and an opportunity for hearing upon a proposed marketing agreement or license, or both. Such notice shall be given by posting at the office of the Commissioner at Austin, and by mailing a copy of such notice to the last known address of all known handlers affected by such agreement or license whose names appear upon the most recent lists in the office of the Commissioner. Such notice shall also be mailed to any such person who shall have filed with the Commissioner a request for such notice.

Such hearing shall be held within the citrus area of the State of Texas as defined in this Act. At said hearing the Commissioner shall receive and hear the evidence offered by any interested person in support of, or in opposition to, the issuance of such marketing agreement or license. All evidence and exhibits used by the Commissioner or introduced at such hearing shall, within a reasonable time after being so used or so introduced, be available at a central point to all interested parties. Such hearings may be adjourned from time to time and from place to place in the discretion of the Commissioner. A transcript of the proceedings at such hearings shall be made by the Commissioner and shall be open for inspection by any interested party.

Findings of fact prerequisite to marketing agreement or license

Sec. 5. If upon such hearing it shall be found by the Commissioner that the following facts actually exist:

1. The supply of citrus fruits available for marketing exceeds or is likely to exceed the demand therefor at prices which will provide a reasonable return to representative producers of such citrus fruits;
2. The return to producers of such citrus fruits will tend to be increased through the operation of the marketing plan;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

3. The marketing plan may be operated without permitting unreasonable profits to producers of such citrus fruits and without unreasonably enhancing prices of such citrus fruits to consumers;

4. The plan will tend to advance public welfare and conserve the agricultural wealth of the State by preventing threatened economic or agricultural waste; and will tend to prevent disorderly marketing of citrus fruits;

he shall make written findings to that effect and shall enter into a marketing agreement or agreements and issue licenses, or both. If the Commissioner shall find against the existence of any of the facts required to be present under this Section, he shall not issue such marketing agreement or license.

Findings, matters considered in making

Sec. 6. The Commissioner shall base the findings required by Section 5 hereof upon such of the following matters as shall be relevant, and in the administration of such marketing agreement or license, when and if issued, shall take the same into consideration:

(a) The quantity of the several grades, varieties and qualities of the particular citrus fruits under consideration and available for distribution to consumers in the marketing season or seasons during which the proposed program is to be effective.

(b) The quantity of the various grades, varieties and quality of such citrus fruits required by consumers during the marketing season or seasons during which the proposed program is to be effective.

(c) The cost of production of such citrus fruits.

(d) The general purchasing power of consumers thereof.

(e) The general level of prices of commodities which farmers buy.

(f) The general level of prices of other commodities which compete with or are used as substitutes for such citrus fruits.

(g) Any other relevant evidence.

Terms and conditions of agreements or licenses

Sec. 7. Marketing agreements executed and licenses issued pursuant to this Act shall contain one or more of the following terms and conditions and no others, except as provided in Section 6 of this Act:

(1) Limiting, or providing methods for the limitation of the total quantity of any variety of citrus fruit, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in, or transported to, any or all markets in intrastate commerce.

(2) Allotting, or providing methods for allotting, the amount of citrus fruits, or any grade, variety, size, or quality thereof, which each handler may market in or transport to any or all markets other than in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such citrus fruits, under a uniform rule based upon (1) the amounts of such citrus fruits, or any grade, variety, size, or quality thereof, which each such handler has available for current shipment, or (2) upon the amounts shipped by each such handler in such prior period as the Commissioner determines to be representative, or both, to the end that the total quantity of such citrus fruits, or any grade, variety, size, or quality thereof, to be marketed in, or transported to any or all markets, other than in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such citrus fruits, during any specified period or periods, shall be equitably apportioned among all of the handlers thereof.

(3) Determining, or providing methods for determining, the existence and extent of the surplus of such citrus fruits, or of any grade, variety,

size, or quality thereof, and providing for the control and disposition of such surplus, but so as not to burden or obstruct interstate or foreign commerce in such citrus fruits, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

Additional terms and conditions

Sec. 8. Marketing agreements executed and licenses issued under this Act shall, in addition, contain one or more of the following terms and conditions:

(1) Providing for the selection by the Commissioner, or a method for the selection by the Commissioner, of an administrative committee or committees and defining their powers and duties. Such powers shall be limited:

(a) To administering such license in accordance with its terms and provisions;

(b) To making rules and regulations to effectuate the terms and provisions of such license;

(c) To receiving, investigating, and reporting to the Commissioner complaints of violations of such license;

(d) To recommending to the Commissioner amendments to such license;

(e) To collecting from each handler a fee or assessment representing his pro rata share of such estimated expenses, including expenses incurred in hearings held on, and in the execution of such marketing agreement, as the Commissioner, after the submission to him by such administrative agency or agencies of a proposed budget, finds will probably be required to cover expenditures necessarily to be incurred by such agency or agencies, during any period specified by him, for the maintenance and functioning of such agency or agencies; to receiving, expending, and accounting for the funds so collected, and to return to such handler his pro rata share of any unexpended balances which the administrative committee or committees, with the approval of the Commissioner, finds are not so required.

(2) Any other terms and conditions incidental to, and not inconsistent with, the terms and conditions specified in Section 7.

Assent of handlers and producers; procedure

Sec. 9. Pursuant to the provisions of this Act, the Commissioner may, with respect to citrus fruits, enter into a marketing agreement or issue a license thereunder, but no license issued pursuant to this Act shall become effective (a) unless and until the handlers of not less than fifty-one (51) per cent of the volume of the commodity covered by such license, or fifty-one (51) per cent of the number of such handlers, have assented thereto in writing, and (b) unless and until the Commissioner determines that the issuance of such license is approved or favored, (1) by at least sixty-six and two-thirds (66-2/3) per cent of the producers who, during a representative period, determined by the Commissioner, have been engaged within the area covered by such license in the production for market of the citrus fruits covered thereby in commercial quantities, or, (2) by producers who, during such representative period, have produced for market for sale at least sixty-six and two thirds (66-2/3) per cent of the volume of such citrus fruits produced for market within the area covered by such license.

Such representative period may by the Commissioner be determined to be the next preceding crop season prior to the holding of said hearing, or may be such other representative period as the Commissioner may determine.

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In the determination of whether the issuance of such license is approved or favored pursuant to the provisions of this Section, the Commissioner is required to determine the approval or disapproval of producers with respect to the issuance of any license or order, or any term or condition thereof, or the termination thereof, and the Commissioner shall consider the approval or disapproval by any Cooperative Association of Producers, bona fide engaged in marketing citrus fruits or products thereof covered by such license or order, or in rendering services for or advancing the interest of the producers of such citrus fruits, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with such cooperative association of producers.

Such approval, when executed by such cooperative marketing association may be executed in the name of such association and need not set forth the names of the producers on whose behalf it signs.

License, issuance of; notice

Sec. 10. (1) Whenever any member of any class of handlers, processors, or distributors is licensed hereunder, an identical license shall be issued to all members of the same class of handlers, processors, or distributors.

(2) Upon the issuance of any license, or any amendment thereof, a notice of said license or amendment shall be posted on a public bulletin board to be maintained by the Commissioner in his office and a copy of such notice shall be published in a daily newspaper of general circulation published in the citrus area covered by this Act, and in such other paper or papers as the Commissioner may prescribe. No license or any amendment thereof shall become effective until three (3) days after such posting and publication. It shall also be the duty of the Commissioner to mail a copy of the notice of said license to all known licensees whose names and addresses may be on file in the office of the Commissioner and to every person who files in the office of the Commissioner a written request for such notice.

Termination or suspension of license by Commissioner

Sec. 11. (1) Whenever, upon his own investigation, or otherwise, the Commissioner finds that any marketing agreement theretofore executed or any license issued under this Act, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this Act, he shall terminate, or suspend for a specified period, the operation of such marketing agreement or license or such provision thereof.

(2) If the Commissioner finds that the termination of any license or marketing agreement is favored by a majority of the producers who, during such representative period determined by the Commissioner, have been engaged in the production within the area in the State of Texas as covered by this Act for marketing of citrus fruits specified in such marketing agreement, or license, and who during such representative period, produced for market more than sixty-six and two-thirds (66-2/3) per cent of the volume of such citrus fruits produced for market within the area in the State of Texas covered by this Act, or produced within the area in the State of Texas covered by this Act for marketing elsewhere, the Commissioner shall terminate, or suspend for a specified period, such marketing agreement or license or any term or provision thereof, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or license.

Amendment of agreement or license; notice; hearing; findings necessary

Sec. 12. Whenever the Commissioner shall have reason to believe that an amendment of any marketing agreement or license is necessary, or desirable, in order to effectuate the policy of this Act, he shall call a hearing upon such amendment. Such hearing shall be held in the same manner and upon the same notice as upon an original marketing agreement or license. The notice of hearing shall refer by name and date of execution of the agreement or to the issuance of license, or both, to which the amendment is proposed. At such hearing the Commissioner shall receive and hear evidence offered for and against the proposed amendment by any interested person.

If upon such hearing upon said proposed amendment it shall be found by the Commissioner that the following facts actually exist:

1. The proposed amendment will not prevent such marketing agreement and license, or either, from meeting the requirements of Section 5 of this Act;

2. The proposed amendment will tend to facilitate the administration of such marketing agreement and license, or will enable such marketing agreement and license to better meet the requirements of Section 5 of this Act;

he shall make written findings to that effect, and shall execute such amendment to such marketing agreement, or shall issue such amendment to such license, or both. If the Commissioner shall find against the existence of any of the facts required to be present under this Section, he shall not issue such amendment to such marketing agreement or license. Such findings, if against the existence of any such facts, shall in no way impair or affect the marketing agreement or license to which said amendment was proposed.

In considering such amendment, the Commissioner shall take into consideration the evidence presented at the original hearing on the marketing agreement, or license to which such amendment is proposed, and upon any prior amendment thereto.

No amendment to a marketing agreement or license shall be effective until approved in the same manner as required by Section 9 of this Act for the original marketing agreement or license to which such amendment was proposed.

Rules, regulations and orders of Commissioner

Sec. 13. The Commissioner may adopt and enforce all rules, regulations, and orders necessary or desirable to carry out the provisions of this Act and not inconsistent with law. Every general rule, regulation, or order of the Commissioner shall be posted for public inspection in the main office of the Commissioner at least three (3) days before it shall become effective, and shall be given such further publicity, by advertisement in a daily newspaper of general circulation in the territory affected by the issuance of such rule, regulation, or order, or otherwise as the Commissioner shall deem advisable. An order applying only to a person or persons named therein shall be served on the person or persons affected: (1) by personal delivery of a certified copy; or (2) by mailing a certified copy in a sealed envelope with postage prepaid to each natural person or in the case of a corporation in like manner to any officer or agent thereof. Compliance with these provisions shall constitute due and sufficient notice to all persons affected by such rule or order. The Commissioner shall upon request mail to any person affected by any general rule or regulation promulgated by him, a copy of the same and may charge a reasonable fee therefor.

**Revocation or suspension of license for violation thereof; criminal penalty;
civil liability; injunction**

Sec. 14. (1) The Commissioner may, after reasonable notice and opportunity to be heard, revoke or suspend the license of any person issued hereunder for violation of such license or any provision thereof.

(2) Every person who violates any provision of any marketing agreement or license to which he is subject or who, after due revocation of his license, or while the same stands duly suspended, engages in transactions mentioned therein and regulated thereby, shall be guilty of a misdemeanor and on conviction thereof, punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or by imprisonment of not less than ten (10) days nor more than six (6) months, or by both such fine and imprisonment. Each day during which any of the violations above referred to continue shall constitute a separate offense.

(3) Any person willfully exceeding any quota, allotment, or salable percentage fixed for him by or under any license issued by the Commissioner, or any amendment thereto or any rule, regulation, or order issued by the Commissioner, or who shall make any shipment without first obtaining a required allotment or quota or qualifying to ship his salable percentage, or any other person knowingly participating or aiding in so doing, shall become civilly liable to the State in a sum equal to three times the current market value of any excess or shipment, such sum to be recoverable in a civil suit, brought in the name of the State of Texas or in the name of the administrative agency under the particular license involved. The funds so collected shall be used in the administration of the particular license.

(4) The Attorney General of this State, or any District Attorney of this State or any County Attorney, may, upon his own initiative, and shall upon complaint of any person, if after investigation he believes a violation to have occurred, bring an action in the name of the State of Texas in any court of competent jurisdiction of the State of Texas for an injunction against any person violating any provisions of any marketing agreement or license or order, rule, or regulation duly made or promulgated thereunder to which he is subject or who, after due revocation of his license or while the same stands duly suspended, engages in transactions mentioned therein and regulated thereby.

(5) Any administrative agency under any marketing agreement or license may, with the approval of the Commissioner, bring an action similar to that described in paragraph (3) of this Section.

(6) In any action brought to enforce any of the provisions of this Act, as provided in this Section 14:

(a) The judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff a reasonable attorney's fee and any and all costs of suit.

(b) Any such action may be commenced either in the county where any defendant resides, or where any act or omission or part thereof complained of occurred.

(7) The penalties and remedies herein prescribed with regard to any violation mentioned in this Section 14 shall be concurrent and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal, or administrative rights, remedies, forfeitures, or penalties provided or allowed by law with respect to any such violation.

Assessments and fees; collection; record; reports

Sec. 15. (1) Any assessment or fee duly fixed and levied pursuant to any such marketing agreement or license, in accordance with Section 8, paragraph (2), subdivision (e) of this Act, shall constitute a personal debt of every person so assessed and shall be immediately due and payable to the administrative agency charged with the collection thereof and the latter may in its own name, with the approval of the Commissioner, bring an action in a State Court of competent jurisdiction for the collection thereof.

(2) Any funds collected by the administrative agency from the levying of such fees and assessments shall be used for the purpose set forth in the marketing agreement or license under which it was collected. A full and complete record thereof shall be kept to which the Commissioner may have access at any time, and a report of the activities and proceedings shall be filed with the Commissioner from time to time as he may require.

Records and books of persons subject to agreement or license; information furnished Commissioner; Commissioner to take testimony and issue subpoenas; perjury

Sec. 16. (1) All persons subject to a marketing agreement or license issued hereunder shall maintain books and records reflecting their operations under said marketing agreement or license and shall furnish to the Commissioner or his duly authorized or designated representative, such information as may be requested by them relating to operations under said marketing agreement and license, and shall permit the inspection by said Commissioner or his duly authorized or designated representative, of such portions of such books and records as relate to operations under the said marketing agreement and license.

(2) Information obtained by any person hereunder shall be confidential and shall not be by him disclosed to any other person save to a person with like right to obtain the same or any attorney employed by an administrative agency to give legal advice thereon, or by Court order.

(3) For the purpose of carrying out the terms of this Act the Commissioner may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of relevant books, records, or documents of any kind.

(4) No person shall be excused from attending and testifying or from producing documentary evidence before the Commissioner in obedience to the subpoena of the Commissioner on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the Commissioner in obedience to a subpoena issued by him; provided that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Filing fee and deposit; collection of funds by committee; custody of funds; distribution of unexpended funds

Sec. 17. Every application for a marketing agreement and license submitted to the Commissioner for approval shall be accompanied by a filing fee of Ten Dollars (\$10), and shall be accompanied by a deposit from the applicant in such amount as the Commissioner may deem suffi-

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cient and necessary to defray the expenses of preparing and making effective such marketing agreement and license. The Commissioner shall thereafter exact and require, by requisition on the appropriate administrative committee or committees, charged with the collection of funds for expenses under such marketing agreement, that such committee or committees collect, report, and pay over monthly to the Commissioner the amount deemed necessary and sufficient, and requisitioned from such administrative committee or committees by the Commissioner, to defray the actual expenses of the Commissioner to be incurred during the subsequent month in the administration and enforcement of any such marketing agreement or license, under such rules and regulations as he may prescribe.

But all moneys collected from assessments, or otherwise, imposed under this Act and under marketing agreements executed in pursuance thereof, or licenses issued thereunder, by the administrative committee or committees created under this Act, not requisitioned by the Commissioner for administrative expenses as hereinbefore provided in this Section, shall remain in the custody of such administrative committee or committees until the close of the current marketing season or year for which same was collected (not to extend further than the period covered by such marketing agreement), at which time the administrative committee or committees shall return to such handler or handlers his pro rata share of such unused, unexpended, and unrequisitioned assessment or assessments.

Reports by Commissioner as to moneys received; deposit in State Treasury; Agriculture Department officers and employes used in carrying out act

Sec. 18. (1) All moneys received by the Commissioner hereunder shall be by him, at the end of each month, reported to the State Comptroller and at the same time deposited in the State Treasury. All moneys so credited are hereby appropriated for use of said Commissioner to be expended in accordance with law in carrying out the provisions hereof.

(2) Within thirty (30) days prior to each Regular Session of the Legislature, the Commissioner shall submit to the Governor a full and true report of transactions under this Act during the preceding biennium, including a complete statement of receipts and expenditures under this Act during the period and shall submit quarterly to the administrative agency under each marketing agreement or license a complete statement of receipts and expenditures in connection with the administration of each marketing agreement or license during the quarter.

(3) The Commissioner is authorized to use, and to permit the administrative agency or agencies, committee, authority, or body created pursuant to any marketing agreement executed or license issued under this Act, to use the various employees or officers of the State Department of Agriculture in carrying out the provisions of this Act or any marketing agreement executed or license issued pursuant thereto.

Anti-trust laws unaffected

Sec. 19. Nothing in this Act shall alter, repeal, change or modify the anti-trust laws of this State, and if any section and/or subsection of this Act is in violation of the anti-trust laws, such section and/or subsection shall fall and the anti-trust laws both civil and criminal shall stand and prevail over said section and/or subsection held to be in contravention of the anti-trust laws of this State.

Cooperating with other states and Federal government to secure uniformity of administration

Sec. 20. The Commissioner may confer and cooperate with the legally constituted authorities of other States and of the United States, in order to secure uniformity in the administration of Federal and State marketing agreements, standards, licenses, or orders and in the regulations thereby prescribed, and said Commissioner of Agriculture shall have power to conduct hearings jointly with the Secretary of Agriculture of the United States, and may exercise his powers under this Act to effect such uniformity of administration and regulations not inconsistent with the provisions of this Act.

Application of act limited to certain areas

Sec. 21. This Act shall apply and be effective only in the areas of any three (3) citrus fruit producing counties whose boundaries are contiguous to each other and whose aggregate population according to the last preceding Federal Census was not less than one hundred and sixty-five thousand and forty-three (165,043) inhabitants.

Name of act

Sec. 22. This Act may be known and cited as the "Texas Citrus Marketing Act."

Partial invalidity

Sec. 23. If any section, sentence, clause, or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, sentence, clause, and part thereof despite the fact that one or more sections, sentences, clauses, or parts thereof be declared unconstitutional. [Acts 1937, 45th Leg., H.B. # 654.]

Effective May 17, 1937.

Section 24 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for and authorizing "marketing agreements" with respect to citrus fruits or citrus fruit; authorizing the Commissioner of Agriculture of the State of Texas to enter into "marketing agreements" with producers, shippers, and/or handlers thereof in intrastate commerce; setting forth the imperative necessity therefor; defining terms; prescribing duties and powers of the Commissioner of Agriculture of the State of Texas with respect thereto; authorizing the giving of notice in prescribed manner, and hearing after notice, and determination of facts incident to marketing agreements; providing for the granting of licenses or orders in connection therewith and prescribing the terms thereof; providing for the revocation and suspension of same; providing what may be embraced in such marketing agreements; providing for the selection of administration committee or committees; providing for suspension or termination of marketing agreements and licenses or orders issued thereunder; providing for enforcement of such marketing agreements or licenses

or orders; providing for suits by designated State officers or administrative agencies upon complaint of the violation of the terms of this Act or any marketing agreement executed thereunder or licenses or orders issued pursuant thereto; providing for fees and assessments under this Act and under marketing agreements executed and issued in pursuance of this Act; providing for the collection, handling, and accounting for such fees and assessments under this Act; providing for keeping of prescribed records and furnishing information to Commissioner of Agriculture and to the Legislature of the State of Texas respecting transactions under this Act; providing for amendments to such marketing agreements and licenses or orders and the manner of effecting same; defining offenses and prescribing penalties and punishments therefor and how applied; providing saving clause in Act; providing Act may be cited as "Texas Citrus Marketing Act"; providing the area where effective; providing nothing in this Act shall alter, repeal, change or modify the anti-trust laws of this State; providing authority for Commissioner of Agriculture to issue process for witnesses and enforce their attendance; providing for immunity from punishment for anyone giving evidence tending to incriminate him-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes .
 self; providing for immunity from punishment under the law against monopolies or combinations in restraint of trade where act done was in pursuance of this Act; providing for cooperation by the Commissioner of Agriculture of the State of Texas with other States and with the United States, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #654.]

TITLE 94—MILITIA

CHAPTER THREE—NATIONAL GUARD

ADJUTANT GENERAL

Art. 5798a. Veterans' State Service Officer

Section 1. There is hereby created the office of Veterans' State Service Office of the State of Texas to be composed of a Veterans' State Service Officer, who shall receive a salary of not to exceed Three Thousand (\$3,000.00) Dollars per annum, to be paid in twelve (12) equal monthly installments, and such Assistant Veterans' State Service Officers as shall hereafter be appointed, each Assistant Veterans' State Service Officer stationed at each regional office and/or combined facility of the United States Veterans' Administration shall receive a salary of not to exceed Twenty-two Hundred (\$2200.00) Dollars per annum payable in twelve (12) equal monthly installments, and each of the other Assistant Veterans' State Service Officers shall receive a salary of Eighteen Hundred (\$1800.00) Dollars per annum, payable in twelve (12) equal monthly installments, and such office personnel as shall hereafter be employed, at such salaries as shall be fixed by the Legislature, to be attached to the Adjutant General's Department of the State of Texas. All salaries, travel and other expenses to be paid by warrants approved by the Adjutant General.

Appointment of assistants; qualifications

¹The Legislature, in its regular biennium appropriation bill, shall determine the number of Assistant Veterans' State Service Officers, and such additional employees as may be determined to be necessary, and when so determined, the Adjutant General, with the advice and consent of the Governor, shall make such appointments, who shall be appointed to serve for a term of two (2) years, commencing at the beginning of the biennium, and shall serve for said biennium unless removed for cause.

In no event shall any officer or employee be appointed unless authorized in the regular biennium appropriation bill. Such Veterans' State Service Officer and such Assistant Veterans' State Service Officers shall be qualified by education and training for the duties of such offices. They shall be experienced in the law, regulations, and rulings, of the United States Veterans' Administration controlling the cases coming before them, and said field men shall have served in the active military, naval, or other armed forces or nurses corps of the United States sometime during the period between April 6, 1917, and November 11, 1918, or between April 24, 1898, and July 4, 1902, and have been honorably discharged therefrom. Such persons shall have had at least two (2) years experience as a service officer in a nationally recognized veterans' organization engaged in service work to war veterans, as such term is defined by the United States Veterans' Administration, either as a Post, State, Department or National Service Officer which shall be evidenced by a statement of qualifications filed by the individual seeking appointment, with the Adjutant General, upon forms supplied by the Adjutant General, which shall be certified to by the State Commander of the veterans' organization to which such applicant shall belong and a certificate issued by the United States

Veterans' Administration showing that applicant is authorized to appear on behalf of claimants before the rating boards and/or other boards and/or Departments of the United States Veterans' Administration. Such statement of qualifications and supporting certificates shall be filed with the Adjutant General fifteen (15) days before said appointments are made, and the filing thereof shall be a condition precedent to appointment.

¹ Probably should read "Sec. 2"

Duties enumerated

Sec. 3. The duties of the Veterans' State Service Officer and the Assistant Veterans' State Service Officers of the State of Texas shall be to aid all residents of the State of Texas who served in the military, naval or other armed forces or nurses' corps, of the United States of America during any war or peacetime enlistment, and/or widows and/or orphans, and/or dependents in preparing, submitting and presenting any claim against the United States, or any State, for compensation, hospitalization, insurance or other aid or benefits to which they may be entitled under existing laws of the United States, or any State, or such laws as may hereafter be enacted, pertinent thereto. It shall also be their duty to aid the United States Government, or any State, to defeat all unjust claims of veterans that may come to their attention. No fees, either directly or indirectly for any service rendered by such Veterans' State Service Officer or Assistant Veterans' State Service Officers, shall be charged applicant, nor shall they permit the payment of any fee by applicant to any third person for any services that might be rendered by them.

Headquarters and home stations; travel and reports

Sec. 4. The headquarters of the Veterans' State Service Office shall be in Austin, Travis County, Texas. The home stations of Assistant Veterans' State Service Officers shall be, one at each regional office and/or combined facility of the United States Veterans' Administration in Texas, and at such places in the State of Texas as the Adjutant General shall direct. Such officers shall travel on orders from the Adjutant General and shall submit such reports in writing as may be required by the Adjutant General.

Officers to administer oaths; entry into State institutions

Sec. 5. Said officers shall have a seal of office and shall be authorized to administer oaths in the proper performance of their duties and such officers shall be given official entry into the records of the eleemosynary and penal institutions of the State of Texas under the rules and regulations of the Board of Control governing eleemosynary institutions and under the rules and regulations of the Texas Prison Board governing the Texas Prison System, for the purpose of determining the status of any person confined therein as regards to any benefit to which such person may be entitled. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. # 29, § 1.]

Effective July 15, 1937.

Section 2 of the Act of 1937 repeals all conflicting laws and parts of laws; section

3 declared an emergency and provided that the Act should take effect from and after its passage.

Repeals

Sec. 6. All laws and parts of laws in conflict herewith are hereby repealed.

Partial Invalidity

Sec. 7. If any section, sentence, clause, or part of this Act shall for any reason be held to be invalid, such decision shall not affect the re-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

maining portions of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause, or part thereof may be declared invalid. [Acts 1927, 40th Leg., p. 210, ch. 141; Acts 1931, 42nd Leg., p. 414, ch. 246, § 1; Acts 1937, 45th Leg., H.B. #321, § 1.]

Section 2 of the amendatory act of 1937 declared an emergency making the act effective on and after its passage.

GENERAL PROVISIONS

Art. 5890b. National Guard Armory Board

Sec. 1. There is hereby created the Texas National Guard Armory Board, hereinafter called the "Board" to be composed of three members. The persons acting as the members of the existing Texas National Guard Armory Board shall constitute the members of the Board under the provisions of this Act. The members of the Board shall serve without compensation until their resignation in writing shall be accepted by the Governor of Texas, or until death or removal for malfeasance. Any vacancy shall be filled by the senior active officer of the Texas National Guard, after excluding such officers as shall then be members of the Board, whose name shall be certified to the Secretary of State by the Adjutant General of the State of Texas not later than fifteen days after such vacancy shall have occurred. Any such officer appointed to fill a vacancy shall qualify for office by taking and filing the constitutional oath of office with the Secretary of State. In case any officer appointed to fill any vacancy shall for any reason fail to qualify in such manner within a period of not exceeding fifteen days from the date of the certification of his name with the Secretary of State as herein provided, the Adjutant General of the State of Texas shall certify that fact to the Secretary of State together with the name of the next senior active officer of the Texas National Guard in like manner as hereinabove provided. Said Texas National Guard Armory Board shall be and is hereby constituted a body politic and corporate. The Board shall elect as Chairman the member thereof who is the senior ranking officer of the Texas National Guard, active or retired, and shall elect as Treasurer the member thereof who is the lowest ranking officer of the three persons constituting the members of said Board, and said members, so designated shall thereupon constitute the Chairman and Treasurer, respectively, of said Board. The Board shall employ a secretary at a salary not to exceed Three Thousand (\$3,000.00) Dollars per year and traveling expenses.

The Board shall act by resolution adopted at a meeting thereof called and held in accordance with such by-laws or rules and regulations as the Board may adopt for the regulation of the conduct of the affairs thereof. Two members of the Board shall constitute a quorum for the transaction of business at all meetings and any action taken by two members of the Board at a meeting shall be deemed to be the action of the Board for all purposes.

Sec. 2. It shall be the duty of the Board to select in some city convenient to the members thereof, a place for the headquarters of said Texas National Guard Armory Board. It shall be the duty of said Board to have charge of the acquisition, construction, rental, control, maintenance and operation of all Texas National Guard armories, including stables, storehouses, rifle ranges, and all other property and equipment necessary or useful in connection therewith, and said Board shall possess all powers necessary and convenient for the accomplishment of such

duty, including, but without being limited thereto, the following express powers:

- (a) To sue and be sued.
- (b) To enter into contracts in connection with any matter within the objects, purposes or duties of the Board. The taking and tabulation of bids for work approved for bids by the Armory Board, and the supervision of construction under contracts executed by the Armory Board, and the purchase of furniture and equipment desired by said Armory Board, shall be the duty of the State Board of Control of the State of Texas, for and on behalf of the Armory Board.
- (c) To have and use a corporate seal.
- (d) To employ and pay and dismiss such agents, employees and counsel as may be necessary to carry out the objects, purposes, and duties of the Board.
- (e) To adopt, and from time to time change or amend, all necessary by-laws, rules and regulations for the conduct of the business and affairs of the Board.
- (f) To acquire property of any and every description whether real, personal or mixed, by gift or by purchase, to convey such property, and to pledge the rents, issues and profits thereof.
- (g) To acquire building sites and buildings and equipment suitable for armory purposes, by gift or purchase; to acquire building sites by gift or purchase, and to construct and equip buildings thereon, and to hold, use and convey such building sites and buildings, together with all appurtenances thereunto belonging, and all equipment located thereon, and to pledge the rents, issues, and profits thereof. All such property, together with the rents, issues and profits thereof, shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district in the State.
- (h) To borrow money, and to issue and sell bonds, debentures and other evidences of indebtedness for the purpose of acquiring building sites and buildings, and for the purpose of constructing and equipping buildings, such bonds, debentures or other evidences of indebtedness to be fully negotiable and to be payable solely from the rents, issues and profits of all of the property so acquired or constructed by the Board. Such bonds, debentures or other evidences of indebtedness may be issued in series, and if so issued all series thereof shall rank equally, without preference or priority of any one series over another, whether by reason of the date of issue or negotiation thereof or the date of maturity thereof, or for any other reason. And all such bonds, debentures or other evidences of indebtedness and the interest thereon shall be exempt from taxation (except inheritance taxes) by the State of Texas or by any Municipal corporation, county or other political subdivision or taxing district in the State. Said bonds, debentures or other evidences of indebtedness may be sold by the Board in any manner they may determine; provided that no bonds, debentures or other evidences of indebtedness shall be issued and sold at a price which will be such that the interest cost of the money received by the Board from the sale thereof will exceed six per cent (6%) per annum, computed to maturity, according to standard tables of bond values. And provided further that no bonds, debentures or other evidences of indebtedness shall be sold unless and until same shall have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts. Such bonds, debentures or other evidences of indebtedness shall be secured by pledge of all of the rents, issues and profits of all the property owned by the Board, and for that purpose the Board shall have power from time to time to execute and deliver trust deeds and trust agreements whereunder any bank or trust company authorized by the laws of the State or of the

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

United States of America to accept and execute trusts in the State may be named and act as Trustee. Any such trust deed or trust agreement may contain provisions for the deposit with the Trustee thereunder and the disbursement by such Trustee of the proceeds of the bonds, debentures or other evidences of indebtedness issued thereunder or secured thereby, and the rents, issues, and profits of all property acquired or constructed out of such proceeds, and may also contain such provisions for the protection and enforcement of the rights and remedies of the said Trustee and the holders of such bonds, debentures or other evidences of indebtedness as the Board may approve, including provisions for the acceleration of the maturity of any such bonds, debentures or other evidences of indebtedness upon default by the Board in the performance or observance of any of the covenants or provisions of such bonds, debentures or other evidences of indebtedness or of the trust deed or trust agreement whereunder the same are issued or secured. Any such trust deed or trust agreement shall provide that all bonds, debentures or other evidences of indebtedness issued at any time thereunder shall be equally secured thereby but any such trust deed or trust agreement may contain and impose upon the Board limitations and conditions governing the right of the Board to issue additional bonds, debentures or other evidences of indebtedness. All such bonds, debentures or other evidences of indebtedness shall be signed by the Chairman of the Board, countersigned by the Treasurer thereof, and the corporate seal of the Board shall be thereto affixed, and such seal attested by the Secretary of the Board, and in case any officer of the Board who shall have signed or attested any such bond, debenture or other evidence of indebtedness shall cease to be such officer before such bond, debenture or other evidence of indebtedness shall have been actually issued by the Board, such bond, debenture or other evidence of indebtedness may nevertheless be validly issued by the Board. Such bonds, debentures or other evidences of indebtedness may be issued in fully registered form without interest coupons, or in coupon form registerable as to principal only, or in bearer form with coupons attached. All of such coupons shall be authenticated by the facsimile signature of the Treasurer of the Board; and

(i) To execute and deliver leases demising and leasing to the State of Texas through the Adjutant General for such lawful term as may be determined by the Board, any building or buildings and the equipment therein and the site or sites therefor, to be used for armory and other proper purposes, and to renew such leases from time to time; provided, however, that if at any time the State of Texas shall fail or refuse to pay the rental reserved in any such lease, or shall fail or refuse to lease any such building and site, or to renew any existing lease thereon at the rental provided to be paid, then the Board shall have the power to rent such building and equipment and the site therefor to any person or entity and upon such terms as the Board may determine. The law requiring notice and competitive bids shall not apply to leasing of such property. The annual rental (which may be made payable in such installments as the Board shall determine) to be charged the State of Texas for the use of such property leased to it by the Board shall be sufficient to provide for the operation and maintenance of the property so leased, to pay the interest on the bonds, debentures or other evidences of indebtedness issued for the purpose of acquiring, constructing or equipping such property, to provide for the retirement of such bonds, debentures or other evidences of indebtedness, and the payment of the expenses incident to the issuance thereof, as well as the necessary and proper administrative expenses of the Board. Every such lease shall expressly provide that the rights of the lessee thereunder, whether the lessee be

the State of Texas or any other person or entity, shall be expressly subject and subordinate to the lien of any trust deed or trust agreement made by the Board (either before or after the date of delivery or recordation of such lease) and pledging the rents, issues and profits of such property.

Sec. 3. As and when the property owned by the Board shall be fully paid for, free of all liens, charges and encumbrances, and all debts and other obligations incurred in connection with the acquisition or construction of property have been fully paid, the Board shall donate, transfer and convey such property, by appropriate instruments of transfer and conveyance, to the State of Texas, and such instruments of transfer and conveyance shall be kept in the custody of the Adjutant General's Department.

Sec. 4. The Board shall cause to be kept accurate minutes of its meetings and accurate records and books of account in conformity with approved methods of bookkeeping, clearly reflecting the income and expenses of the Board and all transactions in relation to its property. In the execution and administration of objects and purposes herein set forth, the Board shall have power to adopt means and methods reasonably calculated to accomplish such objects and purposes and this Act shall be construed liberally in order to effectuate such objects and purposes. [Acts 1935, 44th Leg., p. 462, ch. 184; Acts 1937, 45th Leg., S.B. #402, § 1.]

Section 2 of the amendatory Act of 1937 reads as follows: "If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this

Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

TITLE 102—OIL AND GAS

GENERAL PROVISIONS

Art.

6008a. Production and use of sour gas from common reservoirs for carbon black; definitions [New].

NATURAL GAS

Art.

6053a. Investigation and regulation of use of malodorants [New].

GENERAL PROVISIONS

Art. 6008. [7849] Production and use of natural gas

Extension of Interstate Compact to Conserve Oil and Gas:

Acts 1937, 45th Leg., H.B. # 511, empowered the Governor to execute an agreement with other States, members of the Interstate Oil Compact Commission, extending the Compact for a period of two years from Sept. 1, 1937, its expiration date. The Act further set out the text of the Compact and provided what the extension agreement should contain. See Vernon's Texas Statutes Annotated (Civil Statutes), art. 6008 note.

Resolution of Congress Aug. 10, 1937, c. 572, 50 Stat. —, gave the consent of the United States to an extension and renewal of the Interstate Compact to Conserve Oil and Gas for a period of two years from Sept. 1, 1937.

The Compact has been extended to Sept. 1, 1939, by Illinois, Laws 1935, p. 1418, § 6, as added by L.1937, p. 940 (Smith-Hurd Ill.Stats. ch. 104, § 24); by Oklahoma, Laws 1936, Ex.Sess., p. 49, § 1 (52 Okl.St. Ann. § 201 note); by Kansas, Laws 1937, ch. 264, § 3; and by New Mexico, Laws 1937, ch. 16, § 3.

Art. 6008a. Production and use of sour gas from common reservoirs for carbon black; definitions

Sec. 1. Where used in this Act the following words shall have the meaning given to them by Section 2, Chapter 120,¹ Acts Forty-fourth

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Legislature, Regular Session, to-wit: "Commission", "person", "common reservoir", "gas well", "oil well", "sour gas", "sweet gas", "natural gasoline", "cubic foot of gas", "casinghead gas".

¹ Article 6008, ante.

Maximum daily withdrawal for manufacture of carbon black; proration

Sec. 2. In any common reservoir in this State producing both sweet and sour gas, there shall never be produced from such common reservoir for utilization in carbon black manufacture, a maximum daily volume of sour gas from such gas wells in excess of seven hundred fifty million (750,000,000) cubic feet which daily volume of sour gas from gas wells shall be prorated by the Commission among all the sour gas wells in such reservoir so as to prevent cognizable and preventable drainage of gas from tracts of land in such sour gas producing area segregated as to surface position and common ownership on which such sour gas wells are located; provided that if the daily demand for sour gas from gas wells for utilization in carbon black manufacture is less than the daily maximum allowable hereinabove permitted, the total daily volume of gas from gas wells from such sour gas area for utilization in carbon black manufacture shall be equal to such daily demand which demand shall be determined by the Commission and shall be prorated among all the sour gas wells in such area as hereinabove provided.

If a lawful daily demand exists for sour gas from gas wells for purposes of utilization permitted by existing law, other than the manufacture of carbon black, such additional demand shall be added to such daily demand for carbon black manufacture as hereinabove set forth, which sum shall constitute the daily volume of sour gas from gas wells which may be withdrawn from such common reservoir for utilization. Such daily volume shall be prorated by the Commission among the sour gas wells in such area on the basis hereinabove set forth.

It shall be unlawful for any person to produce sour gas from any sour gas well in such reservoir in excess of the daily allowable production for such gas well as fixed by the orders and schedules of the Commission. The rate of production from any sour gas well shall be deemed to be the daily average rate of production for the calendar month.

Hearings, determination; rules and regulations of Commission

Sec. 2a. In administering the provisions of this law the Commission shall hold hearings, make determinations, and make and promulgate orders, rules and regulations as provided in Sections 12, 13, and 14 of Chapter 120,¹ Acts of the 44th Legislature, Regular Session. The Commission shall otherwise have the duty to make and promulgate any rule, regulation or order it may find necessary to carry out the provisions of this law, after notice and hearing for such purpose.

¹ Article 6008, ante.

Commingling of casinghead gas with sweet or sour gas, or of sweet and sour gas, without permit prohibited; regulation of use of gases

Sec. 3. (a) In any common reservoir in this State producing both sweet and sour gas, it shall be unlawful for any person to operate a plant for the extraction of the natural gasoline content of gas in which plant casinghead gas is commingled with either sweet gas or sour gas, or both, or where sweet gas and sour gas are commingled, until such person secures from the Commission a permit authorizing the operation of such plant. It shall be the duty of the Commission to issue such permit when it shall appear that such plant is being operated, and the residue gas from same is and shall be disposed of, in accordance with the provisions of this section.

(b) Where any such plant in such common reservoir commingles casinghead gas with sweet gas or sour gas, or both, it shall not be lawful for the operator of such plant to blow, or permit to be blown, into the air any of the residue gas remaining after the gasoline content of such gas is extracted; provided, however, the operator of such plant shall be permitted to blow to the air such amount of residue gas from said plant as is determined by the Commission to be necessary in order to accomplish uninterrupted deliveries in required amounts to carbon black plants for carbon black manufacture.

(c) Where any such plant in such common reservoir commingles casinghead gas with sweet gas or where any such plant commingles sweet gas with sour gas, it shall be the duty of the Commission to ascertain the quantity of residue gas which is required to be used for fuel purposes in the efficient operation of the plant and also the quantity of residue gas which is required to be returned by the operator of such plant to the leases to which the plant is connected for use as fuel in the operation of such leases. The operator of such plant shall be required to utilize or cause to be utilized for one or more of the uses provided for sweet gas by existing law a quantity of the residue gas from such plant which is equal to the quantity of sweet gas which is taken into said plant for processing, less the extraction loss from such processing, but such operator shall not be credited with use of such residue for plant-fuel or lease-fuel operations in an amount in excess of the quantity of such residue gas found by the Commission to be necessary for the efficient operation of such plant and return to such leases for fuel for lease operations.

(d) The commingling in any such plant of casinghead gas with sweet gas or sour gas, or both, or of sweet gas with sour gas, except upon the conditions and requirements set forth in Section 3 of this Act,¹ is hereby declared to be unlawful. Whenever it shall be made to appear to the Commission that any such plant is operating in violation of any of the provisions of this section, it shall be the duty of the Commission to cancel the permit so issued to such plant, and it shall thereafter be unlawful for the operator of such plant to commingle either casinghead gas with sweet gas or sour gas or to commingle sweet gas and sour gas in any such plant for the purpose of extracting the natural gasoline content thereof.

¹ This section.

Hearings by Commission; notice; inspection of books and records; sworn reports

Sec. 4. From time to time the Commission shall hold hearings, after notice to interested operators, for the purpose of hearing evidence, and to promulgate rules, regulations and orders to enforce the provisions of this law. In addition to the authority given by existing law, the Commission or its agents shall have the right to inspect the books and records of any person who is affected by the provisions hereof and to require sworn reports to be filed, such sworn reports to be filed from time to time as the Commission may find necessary. All rules, regulations and orders promulgated by the Commission under the terms of this law shall be deemed prima facie valid.

Penalty; injunction and prohibition

Sec. 5. Any person violating any of the provisions of this Act shall be liable to a penalty not to exceed One Thousand (\$1,000.00) Dollars for each offense and each day's violation shall constitute a separate offense. Such penalty may be recovered by the State of Texas, with costs of suit, in a civil action instituted by the Attorney General in Travis Coun-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ty or in the county where the violation occurred. Any and all violations, and threatened violations, of this Act may be enjoined by any court of competent jurisdiction in which suit for penalty may be brought, and in such cases the court shall issue such writs or injunction, prohibitory or mandatory, as the facts justify.

Appeals to courts

Sec. 6. Any person affected thereby may sue to test the validity of any rule, regulation or order promulgated by the Commission under this Act in the same manner, upon the same conditions, and to the same court or courts, as prescribed for suits testing the validity of rules, regulations and orders of the Commission promulgated under the general oil conservation statutes of this State.

Repeal of conflicting laws; provisions cumulative

Sec. 7. All laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed; but where same are not in conflict the provisions of this Act shall be cumulative of existing laws.

Partial invalidity

Sec. 8. If any clause, sentence, provision or section of this Act should for any reason be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act and such remaining parts shall remain in full force and effect. [Acts 1937, 45th Leg., S.B. #407.]

Art. 6049e. Definitions

Effect of period

Sec. 20. The provisions of this Act shall end and terminate September 1, 1939. [As amended Acts 1937, 45th Leg., H.B. #9, § 1.]

NATURAL GAS

Art. 6053. Regulation of utilities

The Commission after due notice shall fix and establish and enforce the adequate and reasonable price of gas and fair and reasonable rates of charges and regulations for transporting, producing, distributing, buying, selling and delivering gas by such pipe lines in this State; and shall establish fair and equitable rules and regulations for the full control and supervision of said gas pipe lines and all their holdings pertaining to the gas business in all their relations to the public, as the Commission may from time to time deem proper; and establish a fair and equitable division of the proceeds of the sale of gas between the companies transporting or producing the gas and the companies distributing or selling it; and prescribe and enforce rules and regulations for the government and control of such pipe lines in respect to their gas pipe lines and producing, receiving, transporting and distributing facilities; and regulate and apportion the supply of gas between towns, cities, and corporations, and when the supply of gas controlled by any gas pipe line shall be inadequate, the Commission shall prescribe fair and reasonable rules and regulations requiring such gas pipe lines to augment their supply of gas, when in the judgment of the Commission it is practicable to do so; and it shall exercise its power, whether upon its own motion or upon petition by any person, corporation, municipal corporation, county, or commissioner's precinct showing a substantial interest in the subject, or upon petition of the Attorney General, or of any county or district attorney in any county wherein such business or

any part thereof may be carried on. [Acts 1920, 36th Leg., 3rd C.S., p. 18, ch. 14, § 3; Acts 1937, 45th Leg., H.B. #1017, § 1.]

Sections 2-4 of the Acts of 1937 cited to the text, constitute article 6053a.

Art. 6053a. Investigation and regulation of use of malodorants

Sec. 2. In addition to the duties and powers of the Commission hereinabove set forth, it is empowered and it shall be its duty to investigate the use of malodorants by persons, firms, or corporations engaged in the business of handling, storing, selling or distributing natural and liquefied petroleum gases, including butane and other odorless gases, for private or commercial uses, or supplying the same by pipe lines or otherwise, to any public building or buildings or the general public, and the Commission is empowered to require such persons, firms or corporations to odorize such gas by the use of a malodorant agent of such character as to indicate by a distinctive odor the presence of gas; such malodorant agent so required to be used, however, shall be non-toxic and non-corrosive and not harmful to leather diaphragms in gas equipment, the method of its use and containers and equipment to be used in connection therewith to be under the direction of and as approved by the Railroad Commission of Texas; the Commission having full power and authority to prescribe such rules and regulations as in its wisdom may be deemed necessary to carry out the purposes of this Act. Nothing herein contained shall apply to gas transported out of the State of Texas.

Equipment for storing and dispensing liquefied petroleum gases

Sec. 2-a. After the effective date of this Act all containers and pertinent equipment installed for use in this State for the storage and dispensing of liquefied petroleum gases for the purpose of providing gas for industrial, commercial and domestic uses, shall be designed, constructed, equipped, and installed as specified under the published regulations of the National Board of Fire Underwriters for the design, installation, and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases, effective July 15, 1934, and amendments, modifications or revisions thereto. All containers used for the transportation of liquefied petroleum gases over the highways of this State, shall be designed, constructed, and operated in accordance with the published regulations for the design, construction, and operation of automobile tank trucks and tank trailers for the transportation of liquefied petroleum gases, adopted by the National Board of Fire Underwriters and the National Fire Protection Association in the year 1935, and amendments, modifications or revisions thereto. Containers subject to the regulations of the Interstate Commerce Commission and containers which are owned or used by the Government of the United States of America are excepted from the provisions of this Section. Provided, however, that nothing herein shall be construed to alter, modify, or amend the Motor Carriers Law of the State of Texas.¹

¹ Vernon's Rev.Civ.St. art. 911b.

Penalty; suit for collection

Sec. 3. The failure of any person or persons, firm, or corporation, municipality, or otherwise, or any association, or manufacturing or distributing or storing system in this State handling such gases, or installing or using such containers and pertinent equipment, as set out in this Act, to, within sixty days (60) after the receipt of any order of the Railroad Commission, comply fully with the Act or any such order, rule or regulation, shall be a violation of this Act, subjecting such person or persons, and the officers and executives of such named concerns to a penalty of One Thou-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

sand Dollars (\$1000) for each day they shall fail to comply with such Act; and the Attorney General is empowered to bring suit for the collection of same in the District Court of Travis County, Texas.

Notice of rules and regulations; hearings on objections

Sec. 4. Before the adoption or promulgation of any orders, rules, and regulations under the terms and provisions of this Act, the Railroad Commission shall give ten days (10) notice to all utilities and other interested parties embraced within this Act, by mailing to such utilities and interested parties a copy of the orders, rules and regulations which the Commission proposes to adopt and promulgate, which notice shall state the time and place when the Railroad Commission will hear and consider any objections to any such orders, rules, and regulations, and any person, firm or corporation affected by such orders, rules, and regulations, shall have the right to file written objections thereto and be heard in person or by counsel, and after such hearing the Railroad Commission shall, in its discretion, adopt and promulgate any such orders, rules, and regulations as published in such notice, or shall make such amendments and modifications thereof as the Railroad Commission shall deem just and equitable, and if, as and when any such orders, rules and regulations are finally adopted, the Railroad Commission shall, within ten days (10) thereafter, cause the same to be published in at least three newspapers of general circulation throughout the State, and a copy thereof to be mailed to each utility and other interested parties. [Acts 1937, 45th Leg., H.B. # 1017.]

Section 1 of the act of 1937, cited to the text, amended article 6053, ante.

TITLE 103—PARKS

1. STATE PARKS BOARD

Article 6067. Creating Board

There is hereby created a State Parks Board of six members to be appointed by the Governor, whose terms shall be six (6) years from date of appointment, but in appointing the first Board he shall appoint two (2) members for two (2) years, two (2) members for four (4) years, and two (2) members for six (6) years. They shall serve without compensation, but shall be reimbursed for necessary traveling expenses and hotel bills out of State funds, except where localities pay such expenses. [Acts 1923, 38th Leg., 2nd C.S., p. 58, ch. 25, § 1; Acts 1937, 45th Leg., S.B. #484, § 1.]

Art. 6068. To solicit park sites or recreational areas

The said Board shall solicit donations to the State of tracts of land, large or small, to be used by the State for the purpose of public parks and/or recreational areas, and said Board is hereby authorized to accept in behalf of the State the title to any such tract or tracts of land, subject to the approval of the Legislature. [Acts 1923, 38th Leg., 2nd C.S., ch. 25, p. 58, § 2; Acts 1937, 45th Leg., S.B. #338, § 1.]

Art. 6069. Duty of Board

Said Board shall make investigations of any tract or tracts of land, of any size whatsoever, in the State with a view of determining whether the same is suitable for public park purposes, and, the terms on which it can be acquired; and shall report the result of their investigations, to-

gether with their recommendations and findings to each regular session of the Legislature, for such action as the Legislature may take. The purpose of this law is to initiate a movement looking to the establishment eventually of a system of State Parks for the benefit of the people, secured either by donation or purchase, or established on any land owned by the State available for such purpose. The said Board is especially directed to inspect the Davis Mountains in Jeff Davis County, to determine the feasibility of same as a park that might be made a National Park. If said Board should conclude that the Davis Mountains area is feasible as a great park, they are hereby authorized to outline the said park; take options or easements and outline a policy to finance the said Davis Mountains area as a park. Any options, easements or tentative deals that are made in regard to said Davis Mountains Park shall be subject to the action of the Legislature and shall not be binding on the State until the Legislature shall approve the action of the Parks Board.

It shall further be the duty of said Board to arrange for or employ a keeper in each of the State Parks under the control of said State Parks Board, who shall be clothed with all the powers and authority of a peace officer of the county, for the purposes of caring for and protecting the property within said parks. [Acts 1923, 38th Leg., 2nd C.S., ch. 25, p. 58, § 3; Acts 1937, 45th Leg., S.B. #376, § 1.]

4B. BIG BEND STATE PARK

Art. 6077c. Creation of Big Bend State Park

Sec. 4. The Texas Canyons State Park, created as one of the State Parks of Texas, by House Bill No. 771, of the Regular Session of the Forty-third Legislature,¹ is hereby renamed Big Bend State Park, and said Big Bend State Park shall consist of the lands described in said Act, and other lands as described in Section 1 of this Act, or falling within the boundaries of the area designated in a survey by the National Park Service as a proposed Big Bend National Park, more particularly described as follows:

Beginning on the international boundary line at a point on the Rio Grande River at latitude 29° 20' and longitude 102° 53', thence on a line which bears N. 29° 0' W. a distance of 1.75 miles approximately to B. M. (3940), thence N. 49° 0' W. a distance of approximately 6.75 miles to B. M. on Sue Peaks, thence N. 18° 0' W. approximately 11.8 miles to an intersection with latitude 29° 35' and longitude 100° 02½', thence N. 52° 30' W. an approximate distance of 9.4 miles to a point which is latitude 29° 40' and longitude 103° 10', thence due north on longitude 103° 10' a distance of ½ mile, thence due west a distance of ½ mile, thence due south ½ mile to latitude 29° 40', thence S. 5° 15' E. an approximate distance of 5.8 miles to a point which is latitude 29° 35' and longitude 103° 10', thence due south on longitude 103° 10' to a point on said longitude line 2 miles south of latitude 29° 30', thence S. 83° 30' W. an approximate distance of 13.7 miles to B. M. (4405), thence S. 42° 30' W. an approximate distance of 20.6 miles to B. M. (2316), thence N. 6° 30' W. about 9½ miles to the international boundary line on the Rio Grande River, thence following the international boundary line along the river in a general easterly direction to the point of beginning, containing approximately 736,000 acres. [As amended Acts 1937, 45th Leg., 2nd C.S., S.B. #13, § 1.]

¹ Article 6077b.

Effective Oct. 26, 1937.

Section 4 of the amendatory act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 5-A. The Legislature of the State of Texas hereby withdraws from sale and lease all unsold Public Free School land situated in Brewster County lying north of North latitude 29° 25', which is included in the area set out as the proposed Big Bend National Park, as described in Section 4 of this Act, as amended. [As added Acts 1937, 45th Leg., 2nd C.S., S.B. #13, § 2.]

Effective date and emergency section.
See note under article 6077c § 4 of this title.

Sec. 6-A. The Texas State Parks Board is hereby authorized and empowered to accept for park purposes any and all lands within said area that may be offered or conveyed to it by any individual, group of individuals or corporation, private or municipal, having title to such land. The Texas State Parks Board is also authorized to accept any and all donations of funds or property that may be made to it for the purchase of lands within this area, and is further authorized to use said monies or property so donated in acquiring title to lands within this area, and to pay for such lands and the cost of acquiring same, out of said fund, such sums as in its discretion it may deem advisable. Provided, however, that no commission shall be paid to anyone in the acquisition of said land. That the State Parks Board shall place any and all funds so received by it in a special fund to be used for the sole and only purposes provided herein. The Texas State Parks Board is also hereby authorized and empowered without condemnation proceedings, or purchase through condemnation proceedings, or by gift or donation, to acquire lands within the foregoing area not now owned by the State of Texas, to be used for park purposes. Said Board is hereby vested with the power of eminent domain, and in the exercise of said power shall have the right to condemn for park purposes within the said area, and may institute, maintain and prosecute suits in the name of the State of Texas, for that purpose following the procedure applicable to the condemnation of lands by counties or by railroads or any other method authorized by law, and it is hereby made the duty of the Attorney General or the County or District Attorneys of Brewster County, Texas, to aid and assist the Board in the institution and prosecution of condemnation suits within said area. [As added Acts 1937, 45th Leg., 2nd C.S., S.B. #13, § 3.]

Effective date and emergency section.
See note under article 6077c § 4 of this title.

6. CITY PARKS

Art. 6081e. Condemnation or purchase by county or incorporated city of land for parks or playgrounds; cooperation with State Parks Board

Certain cities authorized to issue bonds and levy taxes

Sec. 2-b. That where a majority of the resident property taxpayers, being qualified electors of any city in this State having a population of not less than 1525 and not more than 1550 according to the last preceding Federal Census, and by any city having a population of not less than 4400 and not more than 4500 according to the last preceding Federal Census, voting on the proposition, having voted at an election held in such city in favor of the issuance of bonds of such city, and the levy of taxes upon taxable property therein for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption

thereof, for the purpose of park improvements in and for such city, the canvass of said vote revealing such majority having been recorded in the minutes of the governing body of such city, and the governing body of such city, by ordinance or resolution adopted and recorded in its minutes, having authorized the issuance of such bonds, prescribed the date and maturity thereof, the rate of interest the bonds were to bear, the place of payment of principal and interest, and provided for the levy of taxes upon the taxable property in such city to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, each such election and all acts and proceedings had and done in connection therewith and in respect of such bonds and the levy of such taxes by the governing body of such city are hereby legalized, approved and validated; and power and authority is hereby expressly conferred upon the governing body of such city to adopt all orders, resolutions and ordinances and to do all and further acts necessary in the issuance or sale of such bonds, and such governing body is hereby expressly authorized and empowered to levy a direct general ad valorem tax upon all taxable property in such city for the purpose of paying the interest on and the principal of said bonds; provided, that the aggregate amount of bonds issued for park improvements shall never reach an amount where the tax of Ten (10¢) Cents on the One Hundred (\$100.00) Dollars valuation of property will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity. [As added 1937, 45th Leg., 2nd C.S., S.B. #6 § 1.]

Effective Oct. 21, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 105—PARTNERSHIPS AND JOINT STOCK COMPANIES

CHAPTER ONE—PARTNERSHIP—LIMITED

Art. 6111. [6127] [3584] General and special partners

Such partnerships may consist of one or more persons, who shall be called the general partners, and who shall be jointly and severally responsible as general partners now are by law; and of one or more persons who shall contribute in actual cash a specific sum, or its equivalent in other property, as capital to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership beyond the fund so contributed by him, or them, to the capital, in cash or other property, and in case other property than cash is contributed, the partner contributing same shall certify as to the cash value thereof and should it be determined in a suit, or suits, by a creditor, or creditors, that said property did not at the time of contribution, have the cash value placed thereon by said special partner, the said special partner shall be liable to the amount that said property lacked of having the value placed thereon by said partner. [Act May 12, 1846, p. 279; P.D. 4717 et seq.; G. L. vol. 2, p. 1585; Acts 1937, 45th Leg., H.B. #452, § 1.]

Section 1a of the amendatory act of 1937 construed to alter or amend Penal Code, provides that nothing therein shall be Title 14, Chapter 7.

Art. 6113. [6129] [3586] Formation of such partnerships

The persons desirous of forming such partnership shall make and severally sign a certificate, which shall contain:

1. The name or firm under which the partnership is to be conducted.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

2. The general nature of the business intended to be transacted.
 3. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their respective places of residence.
 4. The amount of capital which each special partner shall have contributed to the common stock, and if all, or a part of such capital, has been contributed in property other than cash, a description of said property and the location of same and the cash value placed thereon by partner contributing same.
 5. The period at which the partnership is to commence, and the period at which it is to terminate. [Act May 12, 1846, p. 279; P.D. 4717 et seq.; G.L. vol. 2, p. 1585; Acts 1937, 45th Leg., H.B. #452, § 1.]
- See note to article 6111, ante.

Art. 6116. [6132] [3589] Affidavit of general partner

At the time of filing the original certificate with the evidence of the acknowledgment thereof, as before directed, an affidavit of one or more of the general partners shall also be filed in the same office, stating that the sums specified in the certificate to have been contributed by each of the special partners, to the common stock, have been actually and in good faith paid in cash, or in the property as described in the certificate of partnership. [Act May 12, 1846, p. 279; P.D. 4717 et seq.; G.L. vol. 2, p. 1585; Acts 1937, 45th Leg., H.B. #452, § 1.]

See note to article 6111, ante.

Art. 6122. [6138] [3595] Firm name

The business of the partnership may be conducted under any name; provided, however, that if such name include any word or words other than the name or names of the general partners, there shall be added thereto the word "limited" or "ltd."; and if the name of a special partner is used as such name, or a part thereof, with his knowledge and consent, and is not followed by the word "limited" or "ltd.," such special partner shall be liable as a general partner with respect to all business transacted in that name. [Act May 12, 1846, p. 279; P.D. 4717 et seq.; G.L. vol. 2, p. 1585; Acts 1937, 45th Leg., H.B. #452, § 1.]

See note to article 6111, ante.

TITLE 106—PATRIOTISM AND THE FLAG

Art.

6144cc. Audit of expenditures [New].

Art. 6144c. Texas Centennial Celebration; supplemental act

Sec. 1a. That the unexpended balance of the Three Million (\$3,000,000.00) Dollars appropriation made in Section 1 of Chapter 174, Acts of the Regular Session of the Forty-fourth Legislature be and the same is hereby re-appropriated and re-allocated as provided in said section according to the unexpended balances remaining in each item of said allocation for the biennium ending December 31, 1938. The sums of money hereby re-appropriated are to be expended for the purposes and in the manner provided for in said Chapter 174, Acts of the Regular Session of the Forty-fourth Legislature. [As added Acts 1937, 45th Leg., S.B. # 476.]

Sec. 3. That the Commission of Control created under the provisions of Section 3 of Chapter 174, Acts of the Regular Session of the Forty-fourth Legislature is hereby re-created to be composed of the nine (9) members that now compose said Commission under the Original Act,

except that the place of the Speaker of the House of Representatives on said Commission shall be filled by the member of the House of Representatives from the 86th State Representative District. Vacancies arising on the Commission shall be filled by the authority making the first appointment under the original Act, or in the case of ex officio members of the Commission, to be filled by the officials' successors in office. Said Commission of Control is hereby authorized to perform all of the duties necessary to carry out the provisions and purposes of Chapter 174, Acts of the Regular Session, Forty-fourth Legislature and the powers and authorities of said Commission are extended for a sufficient period of time in order that it may accomplish these purposes. The Commission of Control for Texas Centennial Celebrations is hereby specifically authorized and directed to make application to the Federal Government for funds and to receive said funds to be expended by the Board of Control of the State of Texas as provided for in Section 6 of Chapter 174, Acts of the Regular Session of the Forty-fourth Legislature. [As amended Acts 1937, 45th Leg., S.B. #476, § 2.]

Sec. 18. The unexpended portion of the One Hundred Thousand (\$100,000.00) Dollars heretofore appropriated to the Centennial Commission is hereby re-appropriated to the State Board of Control in order to provide funds for the administration of this Act and as an expense fund for the use of said Board in the performance of the duties imposed on it. [As amended Acts 1937, 45th Leg., S.B. #476, § 3.]

Section 4 of the amendatory Act of 1937 is set out as article 6144cc, post. Section 5 declared an emergency.

Art. 6144cc. Audit of expenditures

It is hereby declared the intention of the Legislature that an audit be made of the expenditure of the funds appropriated under the provisions of House Bill No. 11,¹ Acts of the Regular Session of the Forty-fourth Legislature, and all funds appropriated hereby. Said audit shall be made by the State Auditor or under his direction. It shall be the duty of such Auditor or those working under his direction to make such audit of the expenditure of funds appropriated under the provisions of House Bill No. 11, Acts of the Regular Session of the Forty-fourth Legislature and hereby appropriated as soon as practicable, and furnish the Legislature with a copy of said report. There is hereby appropriated out of the unexpended balance of said funds One Thousand (\$1,000.00) Dollars or so much as may be necessary for the purpose of making such audit. [Acts 1937, 45th Leg., S.B. #476, § 4.]

¹ Article 6144c.

TITLE 109—PENSIONS

2. CITY PENSIONS

Art.
6243e. Firemen's Relief Pension Fund
[New].

3. OLD AGE ASSISTANCE

6243—2. Purpose [New].
6243—3. Persons entitled to assistance
[New].
6243—4. State Board of Control as Texas
Old Age Assistance Commission;
compensation; expenses
[New].
6243—5. Qualifications for assistance
[New].

Art.

6243—6. Duties of Commission in determining eligibility of applicants for assistance [New].
6243—7. Offices, records, equipment, money, etc., of prior Commission to be turned over [New].
6243—8. Executive Director; qualifications; Chief Auditor; salaries; fidelity bonds [New].
6243—9. Local administration; qualifications of employees [New].
6243—10. Expenses of administration; limitation [New].

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

- | Art. | Art. |
|---|--|
| 6243—11. Applications for assistance; form; applications under prior act [New]. | 6243—16. Effect of federal assistance [New]. |
| 6243—12. Investigation of application by local administrative agency; order; review; hearing; [New]. | 6243—17. Assistance subject to amending or repealing act [New]. |
| 6243—13. Amount of assistance [New]. | 6243—18. Construction of act [New]. |
| 6243—14. Applications and beneficiaries under prior act; rights under this act not to be construed as vested; assistance grant inalienable; bankruptcy; gifts or contributions to fund [New]. | 6243—19. Conviction as termination of assistance [New]. |
| 6243—15. Payment of assistance benefits; list of persons entitled to assistance [New]. | 6243—20. Repeal [New]. |
| | 6243—21. Partial invalidity [New]. |
| | 6243—22. Permanent Old Age Pension Fund; liquidation [New]. |
| | 6243—23. Warrants against Texas Old Age Assistance Fund; interest [New]. |

1. STATE AND COUNTY PENSIONS

Art. 6205. [6267a] To whom granted

Out of the Pension Fund created and maintained under the provisions of Article 6204 as amended, there shall be paid on the first day of each calendar month a pension in the amounts provided for in Article 6221 to every Confederate soldier or sailor whose application has heretofore been approved, and also those who came to Texas prior to January 1, 1928, and whose application shall hereafter be approved, and to their widows whose applications have heretofore been approved and also those who have been bona fide residents of this State since January 1, 1928, and whose application shall hereafter be approved and who were married to such soldiers or sailors prior to January 1, 1921, and who lived with such soldier or sailor continuously for at least ten (10) years immediately prior to the death of such sailor or soldier and to soldiers who, under the Special Laws of the State of Texas during the War between the States, served in organizations for the protection of the frontier against Indian raiders or Mexican marauders, and to soldiers of the militia of the State of Texas who were in active service during the War between the States, and to soldiers of the militia of any other Confederate State who were in active service during the War and who came to Texas at least ten (10) years prior to the approval hereafter of his application for a pension, and to soldiers appointed to official or other service in the State of Texas, requiring the carrying of arms during the War between the States, and all soldiers and sailors and widows of all soldiers and sailors eligible to be placed upon the pension rolls and participate in the distribution of the Pension Fund of this State under any existing law or laws hereafter enacted; provided that no widow born since January 1, 1873, shall be entitled to a widow's pension; provided, that the widow of a Confederate Veteran born after January 1, 1873, but prior to January 1, 1875, who has lived continuously with her husband, who was a Confederate soldier or sailor, for a period of forty (40) years prior to his death shall be entitled to a pension under the terms of this Act; a widow entitled to a pension under this Act, but who remarries a man other than a Confederate soldier or sailor shall not be entitled to a pension, but shall not be barred from receiving a pension in the event she should be left a widow after such remarriage, so long as she remains a widow. Soldiers or widows who are over eighty-eight (88) years of age, who have been bona fide citizens of Texas since prior to January 1, 1930, shall be entitled to pensions under this Act, if otherwise pensionable. [Acts 1925, 39th Leg., p. 222,

ch. 69; Acts 1929, 41st Leg., p. 330, ch. 153, § 1; Acts 1930, 41st Leg., 5th C.S., p. 251, ch. 82, § 1; Acts 1931, 42nd Leg., p. 434, ch. 262, § 2; Acts 1937, 45th Leg., H.B. #651, § 1.]

2. CITY PENSIONS

Art. 6243a. Pensions for firemen and policemen in cities having population of 240,000 to 275,000

Who may share in fund

Sec. 6. Any person who, at the establishment of said Fund, or thereafter, shall have been duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operator's Department of any such city or town, to which application is made for participation in said Fund by such person and who has filed written application within thirty (30) days after the organization of such Board, or who shall file his application within sixty (60) days after becoming an active member of such departments, and after he shall have served the usual probationary period, if any, and who shall have allowed such deductions from his salary; and in addition to the membership provided herein, any person heretofore duly appointed or enrolled in the Fire Department, Police Department, or Fire Alarm Operator's Department of any such city or town who is not now a member of the Pension Fund, may file his application with the Board within sixty (60) days after this Act becomes effective and apply for participation therein; provided, however, that such applicant shall pass a physical examination of the same character that is required for original admission into the respective department in which he serves, and provided, that he shall pay into such Fund a sum of money equal to the amount of salary deductions he would have paid had he joined immediately upon becoming eligible to participate in the benefits of said Fund: as well as the beneficiaries hereinafter named shall be entitled to participate in said Fund. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510, § 1.]

Disability Pension in line of duty

Sec. 9. When any member of the Fire Department, Police Department, and Fire Alarm Operator's Department of the city or town and who is contributing to said Fund, as herein provided, shall become so permanently disabled through injury or disease contracted in the line of duty as to incapacitate him from the performance of his duties, and shall make written application subject to medical examination for such injuries or disease, approved by the majority of the Board, he shall be retired from the service and be entitled to receive from the said Fund one-half of the base pay of a private per month, plus one-half of the service money granted to the member under the provisions of any City Charter; which base pay of a private shall be computed on the basis of the current pay roll. The pension allowance shall be granted to the man going on pension as well as to the man already on the pension at the time he became disabled or diseased, the same to be paid in monthly installments which monthly installments shall in no instance exceed one-half of the base pay of a private per month, plus one-half of the service money granted to the member under the provisions of any City Charter. In no case shall a disability claim be acknowledged or award made hereunder until disability has been proved to be continuous and wholly incapacitating for a period of not less than ninety (90) days. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510, § 2.]

Death benefits of widow, etc.

Sec. 10. In case of the death before or after retirement of any member of the Fire, Police, and Fire Alarm Operator's Departments of any city or town, from disease contracted or injury received while in line of duty, and who at the time of his death, or retirement, was a contributor to the said Fund, leaving a widow, child or children under sixteen (16) years of age; the widow and such child or children shall be entitled to receive from the said Fund an amount not to exceed one-half of the base pay of a private per month, plus one-half of the service money granted to members under the provisions of any City Charter; one-half of the widow's amount in the aggregate shall go to the children under sixteen (16) years of age and the balance one-half to the widow. In case there are no children, the widow shall receive one-fourth of the base pay of a private per month, plus one-fourth of the service money granted to members under the provisions of any City Charter. The one-fourth awarded to the children shall be paid by the Board to the widow who shall equally and uniformly distribute the amount among the children. In no instance shall the amount received by the widow, child or children, exceed a pension allowance of one-half of the base pay of a private per month, plus one-half of the service money granted to members under any City Charter. Wherein¹ the Board, after a thorough examination and by a majority vote in favor thereof, determines that the child or children are unable to and lack the proper discretion to handle said amount provided herein for them, it shall designate and appoint said child's or children's natural guardian as custodian of said Fund. Where there is no parent and natural guardian living, the Board shall have the power and authority to designate a suitable person to receive and administer the said Fund; which said party shall receive, for such child or children under the age of sixteen (16) years, one-fourth of the base pay of a private, and one-fourth of the service money granted to members under any City Charter, per month. The said party designated by the Board shall receive his authority and power according to established legal practice. When any child or children, who are beneficiaries under this Act, shall reach the age of sixteen (16) years, then such child or children, shall no longer participate in the division of said wages of said deceased, but the same shall be paid to the remaining child or children, if any, under sixteen (16) years of age. In no case shall the amount paid to any one family exceed the amount of one-half of the base pay of a private per month, plus one-half of the service money granted to members under the provisions of any City Charter. Upon the remarriage of the widow, either statutory or common law, or the marriage of any child granted such pension, the pension shall cease. No widow, or any such member, resulting from any marriage contract subsequent to the date of the retirement of said member, shall be entitled to a pension under this Act. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510, § 3.]

¹ So in enrolled bill. Probably should read "Where".

Death benefits to father and mother in line of duty

Sec. 11. If any member of the Fire, Police, and Fire Alarm Operator's Departments dies from injury received, or disease contracted, in line of duty, who was a contributor to said Fund and entitled to participation in said Fund himself, leaves no widow or child but leaves surviving him a dependent father and mother wholly dependent upon said person for support, such dependent father and mother shall be entitled to

receive one-half of the base pay of a private per month, plus one-half of the service money granted to members under the provisions of any City Charter, to be equally divided between said father and mother, so long as they are wholly dependent. Where there is one dependent, either father or mother, the Board shall grant the surviving dependent one-fourth of the base pay of a private per month, plus one-fourth of the service money granted to members under any provisions of any City Charter. The Board shall have authority to make a thorough investigation and from investigation determine the facts as to the dependency of the said parties and each of them, as to how long the same exists and may, at any time, upon the request of any contributor to such Fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper and the finding of said Board in regard to any matters, as well as to all pensions granted under this Act, shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustee shall have been set aside or revoked by a Court of competent jurisdiction. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510, § 4.]

Medical examination

Sec. 13. Said Board may cause any person receiving any pension under the provisions of this Act, who has served less than twenty (20) years, to appear and undergo medical examination by either the Health Director or some reputable physician selected by the Board; as a result of which the Board shall determine whether the relief in said case shall be continued, increased, decreased, or discontinued. In making the findings the Board may change any percentages stipulated in any section or subsection of this bill, by reducing the same, which change shall be determined according to the per cent and degree of incapacity, taking into account, among other things, the length of time the applicant has been a member of the Pension Fund. If any person receiving relief under the provisions of this bill, after due notice, fails to appear and undergo such examination, the Board may reduce or entirely discontinue such relief. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510, § 5.]

Saving clause

Sec. 17. The laws and parts of laws including city ordinances in conflict herein are hereby repealed to the extent of such conflict only and except as to such conflict shall be in full force and effect, and this Act shall in nowise change, amend or repeal any part of any Fireman's and Policeman's Pension Law other than such law as is provided in House Bill 122, Acts of the First Called Session of the Forty-fourth Legislature.¹

If any provision, section or subsection of this Act is declared unconstitutional by a Court of competent jurisdiction it shall not invalidate the remaining sections and subsections of this Act. [Acts 1933, 43rd Leg., 1st C.S., p. 4, ch. 4; Acts 1935, 44th Leg., 1st C.S., p. 1565, ch. 387, § 1; Acts 1936, 44th Leg., 3rd C.S., p. 2109, ch. 510 § 6.]

¹ Acts 1935, 44th Leg., 1st C.S., p. 1565, ch. 387, amending this article.

Section 7 of the amendatory Act of 1936

declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6243b. Firemen and policemen pension fund in cities of over 100,000

Death benefits, widows, etc.

Sec. 9. In the case of the death before or after retirement of any member of the fire department, police department, or fire alarm operators'

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department of any city or town resulting from disease contracted or injury received while in the line of duty or from any other cause through no fault of his own and who at the time of his death or retirement was a contributor to said Fund, leaving a widow and no children, the widow shall be entitled to receive monthly from said Fund an amount not exceeding one-third of such monthly wage received by such member immediately preceding his retirement, and, if not retired before death, one-third of such monthly wages received by such member immediately preceding his death; and, if at the time of the death of such contributor, under the circumstances and conditions hereinabove set forth, such contributor leaves a child or children under sixteen (16) years of age and the wife of such contributor is dead or divorced from such contributor, the child or children under sixteen (16) years of age shall be entitled to receive monthly from said Fund an amount not exceeding one-third of such monthly wage received by such member immediately preceding his retirement, and, if not retired before death, one-third of such monthly wage received by such member immediately preceding his death, said sum so paid to be equally divided among said children under sixteen (16) years of age, if more than one; and if at the time of the death of such contributor, under the conditions hereinabove set forth, such contributor leaves a widow and a child or children under sixteen (16) years of age, the widow shall be entitled to receive monthly from said Fund (for the joint benefit of herself and such child or children) an amount not exceeding one-half of the monthly wage received by such member immediately preceding his retirement, and if not retired before death, one-half of such monthly wage received by such member immediately preceding his death, said payments to be made until such child or all of said children, if more than one, as the case may be, shall reach sixteen (16) years of age, and after said child or all of said children, as the case may be, have reached the age of sixteen (16) years, then the widow shall be entitled to receive monthly from said Fund (for her benefit) an amount not exceeding one-third of the monthly wage received by such member immediately preceding his retirement, and if not retired before death, one-third of such monthly wage received by such member immediately preceding his death. In no case shall the amount paid to any one family exceed monthly the amount of one-half of the monthly wage earned by the deceased immediately prior to the time of his retirement, or, if not retired, prior to the time of his death. On the remarriage of any widow, such pension paid to her and for her benefit shall cease and in the event that there are child or children under sixteen (16) years of age at the time of said remarriage, one-third of the monthly wage received by such member immediately preceding his retirement, and if not retired before death, immediately preceding his death, shall be paid monthly to the widow for the sole benefit of the child or children under the age of sixteen (16) years; provided, however, that the Pension Board, if it finds that said payments to the widow are not being used for the benefit of said child or children, may order said monthly benefits paid to said child or children instead of to said widow who has remarried. Where there is more than one child of such contributor, the benefits herein provided for shall be equally divided among the children, and upon the marriage or death of any child receiving such pension, or upon any child receiving such pension reaching sixteen (16) years of age, such pension payment for the benefit of said child shall cease, and if there remains a child or children under sixteen (16) years of age, the share of said child so married or dead or reaching sixteen (16) years of age, shall be paid for the benefit of the remaining child or children under sixteen (16) years of age. In the event that a contributor leaves a widow and child or children under sixteen (16) years of age who are not the children of said widow,

the Pension Board may, in its discretion, either pay monthly to the widow for the benefit of herself and said child or children, an amount not exceeding one-half of the monthly wage received by such member immediately preceding his retirement, or immediately preceding his death, if not retired before death, as hereinabove provided, or said Board may order one-fourth of said monthly wage received by such member paid to the widow and one-fourth of said monthly wage paid to said child or children. No widow or child of any such member resulting from any marriage contracted subsequent to the date of retirement of said member shall be entitled to a pension under this law; provided, however, that the provisions of this Section shall not be construed so as to change any pension now being paid any pensioner under the provisions of Chapter 101, of the General and Special Laws of the Forty-third Legislature, First Called Session, and as amended by Chapter 346 of the General and Special Laws of the Regular Session of the Forty-fourth Legislature. [As amended Acts 1935, 44th Leg., p. 881, ch. 346, § 4; Acts 1937, 45th Leg., H.B. #772, § 1.]

Separation of Firemen's, Policemen's, and Fire Alarm Operator's Pension Funds in cities of 100,000 to 185,000 population

Sec. 16. In any such city or town having a population of more than one hundred thousand (100,000) inhabitants and less than one hundred and eighty-five thousand (185,000) inhabitants, according to the last preceding Federal Census, subject to and operating under the Pension Law, applicable to such cities or towns in which the Fire Alarm Operators form a part of and are under the direction of the Fire Department, the governing Body and Board of Trustees may, if it is deemed advisable and a majority of the members of said Fire Department or Police Department vote therefor, authorize and provide for the maintenance and administration of Pension Funds for each Department, said Funds to be the Policemen's Division of the Firemen, Policemen and Fire Alarm Operators' Pension Fund, and the Firemen's Division of the Firemen, Policemen, and Fire Alarm Operators' Pension Fund, and to be kept independent of and apart from each other, and said Funds of each Department to consist of contributions by members of said Department, donations thereto and funds received from any source by said Department, as provided in Section 3 and Section 14 of Chapter 101, Page 279, of the General and Special Laws of the First Called Session of the Forty-third Legislature, being House Bill No. 31, as amended by Chapter 346, Page 811, of the General and Special Laws of the Regular Session of the Forty-fourth Legislature, being House Bill No. 991, and, as amended by House Bill No. 772 of the General and Special Laws of the Regular Session of the Forty-fifth Legislature, and the provisions contained in Sections 1, through 15, of Chapter 101, Page 279, of the General and Special Laws of the First Called Session of the Forty-third Legislature, being House Bill No. 31, as amended by Chapter 346, Page 811, of the General and Special Laws of the Regular Session of the Forty-fourth Legislature, being House Bill No. 991, and, as amended by House Bill No. 772 of the General and Special Laws of the Regular Session of the Forty-fifth Legislature, shall apply to the management, control, and disposition of each of said Funds, the purpose and effect of said division of said Firemen, Policemen, and Fire Alarm Operators' Pension Fund into a Firemen's Division of said Pension Fund, and a Policemen's Division of said Pension Fund being to maintain the membership of and the payments into each Department separate, and to limit the rights of the members of each Department and their beneficiaries to the Pension Fund of their Department, and after the creation and establishment of a Firemen's Division of said Pension Fund and a Policemen's Division of said

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Pension Fund, the rights of Firemen, including Fire Alarm Operators and their beneficiaries, shall be limited to the Firemen's Division of said Pension Fund, and the rights of Policemen and their beneficiaries shall be limited to the Policemen's Division of said Pension Fund. After a separation has been voted and approved, as above provided, the Board of Trustees shall apportion the existing Firemen, Policemen, and Fire Alarm Operators' Pension Fund between the two (2) Funds on the basis of contributions made by the members of the respective Departments and donations or payments to said Departments, and thereafter all payments to members or their beneficiaries of benefits, now accrued or hereafter accruing, shall be made from the Fund of their Department. Where a separation of funds is had, as hereinabove provided, the governing body of any city or town whose voters have authorized the payment of funds from the public treasury into the Firemen, Policemen, and Fire Alarm Operators' Pension Fund, is hereby authorized to pay to the Board of Trustees of the Firemen, Policemen, and Fire Alarm Operators' Pension Fund, for the use of the Pension Fund of each division above provided for, sums not to exceed in total the amount voted by the people to be paid into the single fund. [As added Acts 1937, 45th Leg., H.B. #1179, § 1.]

Validation of proceedings for separation of pension funds

Sec. 17. All Acts and proceedings had and done by the governing body and Board of Trustees of the Pension Fund of any such city or town, subject to the above provisions, in creating, establishing, maintaining, and administering separate Pension Funds for Firemen, including Fire Alarm Operators and Policemen, are hereby legalized, approved, and validated, as well as the division by said governing body and Board of Trustees of any public funds voted by the voters of said city or town for the Firemen, Policemen, and Fire Alarm Operators' Pension Fund between said two (2) Funds, and said governing body and Board of Trustees shall continue the separate maintenance and administration of said Funds in the manner hereinabove provided. [As added Acts 1937, 45th Leg., H.B. #1179, § 2.]

Art. 6243c. Firemen's Relief Pension Fund

Sec. 1. For the purpose of this Act, there is hereby created in this State a special fund to be known and designated as the "Firemen's Relief and Retirement Fund" and it shall be the duty of the State Treasurer and he is hereby directed to pay over, transfer, and convert any and all moneys received by him from collection of the tax herein levied to such Fund, which Fund shall, at all times, be kept under his official bond and oath of office, separate and distinct from any other Fund of this State, with a public record thereof showing all receipts and disbursements.

Tax on gross premiums of insurance companies

Sec. 2. For the purpose of providing permanent funds and revenue for the Firemen's Relief and Retirement Fund hereby created, there is hereby levied and assessed against each and every insurance company, whether a firm, partnership, corporation, mutual or reciprocal company, transacting in this State the business of fire insurance, an additional occupation or license tax of two (2) per centum of all gross premium receipts received or collected from persons or property within this State during the preceding year ending December 31st, provided, the said two (2) per cent shall not be passed on to the purchaser of insurance and the Insurance Department shall not allow such two (2) per cent as additional charge in making rates of fire insurance in the State of Texas.

The gross premium receipts herein referred to shall be reported by said insurance companies to the Commissioner of Insurance subject to the same credits and deductions for capital investment, re-insurance and return premium paid policyholders; the amount of the tax thereon shall be paid in addition to, at the same time and in the same manner as is now provided by Article 7064 of the Revised Civil Statutes of Texas, 1925, and Acts amendatory thereof, and which said tax when so paid and received by the State Treasurer, less the proportion thereof for public school purposes, shall be set aside, deposited into and transferred to and for the use, benefit, and purposes of said Firemen's Relief and Retirement Fund and/or disbursed therefrom as herein provided and directed.

Composition of Board of Trustees and powers

Sec. 3. That all incorporated cities and towns in this State having a regularly organized active fire department, whether wholly paid, part paid or volunteer, with fire fighting apparatus and equipment of the value of One Thousand Dollars (\$1000) or more, the Mayor of such city or town, the city or town treasurer, or if no treasurer, then the city secretary, city clerk, or such other person or officer as by law, charter provision, or ordinance, performs the duty of city treasurer, and three (3) members of such regularly organized active fire department, to be selected by vote of the members of such fire department in the manner hereinafter directed shall be and are hereby constituted the "Board of Firemen's Relief and Retirement Fund Trustees" to receive, handle and control, manage, and disburse such Fund for the respective city or town and as such Board shall have the power and authority to hear and determine all applications for retirement, claims for disability, either partial or total, and to designate the beneficiaries or persons entitled to participate therein or therefrom as hereinafter directed and which said Board shall be known as the "Board of Firemen's Relief and Retirement Fund Trustees of _____, Texas." The Mayor shall be the chairman and the city treasurer shall be the secretary-treasurer of said Board of Trustees respectively. Within thirty (30) days after this Act takes effect, the fire department of any such city or town as comes within the provisions of this law shall elect by ballot three (3) of its members, one to serve for one year, one to serve for two (2) years, and one to serve for three (3) years, or until their successors may be elected as herein provided, as members of said Board of Trustees and shall immediately certify such election to the governing body of such city or town. Annually thereafter, on the first Monday in the month of January after the effective date of this Act, said fire department shall elect by ballot and certify, one member of such Board of Trustees for a three (3) year term. Said Board of Trustees shall elect annually from among their number a vice-chairman, who shall act as chairman in the absence or disability of the mayor-chairman. Such Board of Trustees shall hold regular monthly meetings at such time and place as they may by resolution designate and may hold such special meetings upon call of the chairman as he may deem necessary; shall keep accurate minutes of its meetings and records of its proceedings; shall keep separate from all other city or town funds all moneys for the use and benefit of said Firemen's Relief and Retirement Fund; shall keep a record of all claims, receipts, and disbursements in a book or books to be furnished by said city or town for the purpose; shall make disbursements from said Fund only upon regular voucher signed by the treasurer and countersigned by the chairman and at least one other member of said Board of Trustees. The city or town treasurer, as the treasurer of said Board of Trustees, shall be the custodian of the Firemen's Relief and Retirement Fund for such city

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and town under penalty of his official bond and oath of office. No member of said Board of Trustees shall receive compensation as such. Said Board of Firemen's Relief and Retirement Fund Trustees of each such city or town in this State shall annually and not later than the 31st day of January of each year after this Act takes effect, make and file with the Firemen's Pension Commissioner, herein provided for, a detailed and itemized report of all receipts and disbursements with respect to such Fund, together with a statement of their administration thereof and shall make and file such other reports and statements, or furnish such further information as, from time to time, may be required or requested by said Firemen's Pension Commissioner.

Said Board of Trustees shall have the power and authority to compel witnesses to attend and testify before it with respect to all matters connected with the operation of this Act in the same manner as is or may be provided for the taking of testimony before Notaries Public and its chairman shall have the power and authority to administer oaths to such witnesses. A majority of all members shall constitute a quorum to transact business and any order of said Board of Trustees shall be made by vote to be recorded in the minutes of its proceedings. If a vacancy occur in the membership of said Board of Trustees by reason of the death, resignation, removal, or disability of any incumbent such vacancy shall be filled in the manner herein provided for the selection of such member to be so succeeded.

Pro rata disposition of moneys by State Treasurer

Sec. 4. The State Treasurer shall, not later than the first day of May of each year after this Act takes effect, apportion and pay over to the various Boards of Trustees, upon a pro rata ratio basis of the insurance written upon property within the corporate limits of such city or town, all moneys coming into his hands annually from the gross premium receipts tax herein provided; save and except, the sum of Fifty Thousand Dollars (\$50,000) less expenses of administration as herein provided, the balance of which shall be kept and retained by the State Treasurer in the said Firemen's Relief and Retirement Fund as an emergency reserve fund for the purpose herein provided.

Contributions accepted from any source

Sec. 5. In addition to the apportionment from the State Treasurer from the tax collected from insurance companies, and in addition to the amounts deducted from salaries or paid by members of the fire department as is in this Act provided, the Board of Firemen's Relief and Retirement Fund Trustees of that city or town coming within the provisions of this Act shall have the power and authority to accept and receive for the use and benefit of said Firemen's Relief and Retirement Fund of that city or town, contributions of money from any source; rewards, fees, gifts, or emoluments in money that may be paid or given for, or on account of, any service of the fire department or any member thereof except when allowed to be retained by said member by resolution of the Board of Trustees, or when given to endow a medal or other permanent competitive or merit reward, and the earnings upon the deposit, loan, or investment of said Fund or any part thereof, all of which are hereby directed paid into said Fund to be used for the purposes for which said Fund is created.

Retirement age and pension

Sec. 6. On and after the 1st day of April, A.D.1939, any person who has been duly appointed and enrolled, and who has attained the age of fifty-five (55) years and who has served actively for a period of twenty (20) years in some regularly organized fire department in any city or

town in this State now within or that may come within the provisions of this Act, in any rank, whether as wholly paid, part paid or volunteer firemen shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to one-half of his average monthly salary not to exceed a maximum of One Hundred Dollars (\$100) per month. Such average monthly salary to be based on the monthly average of his salary for the five (5) year period preceding the date of such retirement; provided further, that if his average monthly salary is Fifty Dollars (\$50) or less per month or if a volunteer fireman with no salary, he shall be entitled to a monthly pension or retirement allowance of Twenty-five Dollars (\$25).

Retirement on disability

Sec. 7. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city or town in the State, not within, or that may hereafter come within the provisions of this Act, shall become physically or mentally disabled while in and/or in consequence of, the performance of his duty, said Board of Trustees may, upon his request, or without such request if it shall deem proper and for the good of the department, retire such person from active service either upon total or partial disability as the case may warrant and shall order that he be paid from such Fund, (a) if for total disability, an amount equal to one-half the average monthly salary of such fireman, not to exceed the sum of One Hundred Dollars (\$100) per month; provided that if such average monthly salary be Fifty Dollars (\$50) or less per month, or if he be a volunteer fireman with no salary, the amount so ordered paid shall not be less than Twenty-five Dollars (\$25) per month; such average monthly salary to be based on the monthly average of his salary for the five (5) year period, or so much thereof as he may have served, preceding the date of such retirement; or, (b) if the disability be less than total, then such sum as in the judgment of the Board of Trustees may be proper and commensurate with the degree of disability; provided further, that if and when such disability shall cease, such retirement or disability allowance shall be discontinued and such person shall be restored to active service at not less than the same salary he received at the time of his retirement for disability.

Compensation on temporary disability

Sec. 8. Whenever any duly enrolled member of any regularly organized active fire department of any city or town now coming within or that may hereafter come within the provisions of this Act as herein limited, on account of accident or other temporary disability caused or sustained while in, and/or in consequence of the performance of his duties, be confined to any hospital or to his bed and/or shall require the professional services of a physician, surgeon or nurse, said Board of Trustees shall upon presentation of properly itemized and verified bills therefor, order paid from the Firemen's Relief and Retirement Fund of that city or town, all necessary hospital, physician's, surgeon's, nurse's and/or medicine bills or expenses and not less than Five Dollars (\$5) nor more than Fifteen Dollars (\$15) per week to such fireman during such temporary disability; provided however, that in no case shall the amount or amounts so paid for such bills and expenses exceed the aggregate sum of One Hundred Dollars (\$100) in any one month; and provided further, that the benefits provided by this Section shall not apply to any city or town having a fully paid fire department.

Certificates of disability

Sec. 9. No person shall be retired either for total or temporary disability, except as herein provided, nor receive any allowance from said

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Fund, unless and until there shall have been filed with the Board of Trustees, certificates of his disability or eligibility signed and sworn to by said person and/or by the city or town physician, if there be one, or if none, then by any physician selected by the Board of Trustees. Said Board of Trustees, in its discretion, may require other or additional evidence of disability before ordering such retirement or payment aforesaid.

Contributions by participants deducted from salaries

Sec. 10. Within sixty (60) days after this Act takes effect each fully paid fireman and each part paid fireman whose salary or compensation is Fifty Dollars (\$50) or more per month and each part paid fireman whose salary or compensation is less than Fifty Dollars (\$50) per month and each active volunteer fireman in the employ of any such city or town or enrolled in the fire department of any such city or town, who desires himself or his beneficiaries, as hereinafter named, to participate in such Fund or the benefits therefrom as by this Act provided, shall file with the Secretary-Treasurer of the Board of Firemen's Relief and Retirement Fund Trustees of that city or town a statement in writing under oath that he desires to participate in the benefits from such Fund, giving the name and relationship of his then actual dependents and shall therein authorize said city or town or the governing body thereof to deduct not less than one per centum nor more than three (3) per centum, the exact amount thereof to be determined by the vote of the fire department of which such person is a member, from his salary or compensation if a wholly paid or part paid fireman whose salary or compensation is more than Fifty Dollars (\$50) per month, but if a part paid fireman whose salary is less than Fifty Dollars (\$50) per month, or if a volunteer fireman, the statement shall include a promise and an obligation to pay to said Board of Trustees not less than Three Dollars (\$3) nor more than Five Dollars (\$5) per annum to be paid semi-annually, the exact amount thereof to be likewise determined by vote of the fire department of which such person is a member. Such money so deducted from salaries or compensation or agreed to be paid to become and form a part of the Fund herein designated and established as Firemen's Relief and Retirement Fund of that city or town. Failure or refusal to make and file the statement herein provided, or failure or refusal to allow deduction from salary or to pay the amount herein specified as herein provided on the part of any member shall forfeit his right to participate in any of the benefits from said Firemen's Relief and Retirement Fund. If any such member shall elect not to participate in such Fund, he shall not be liable for any salary deduction nor to pay as herein provided.

Determination of amount of contribution by members

Sec. 11. Within thirty (30) days after this Act takes effect, the fire department of any city or town entitled by the provisions of this Act to participate in said Firemen's Relief and Retirement Fund shall determine by vote of the members thereof, the amount, within the limitations of this Act, of salary to be deducted in case of paid firemen, or the amount to be paid by each member thereof per annum in case of volunteer or part paid firemen whose salary is less than Fifty Dollars (\$50) per month, and the fire chief or other proper officer of such fire department shall so certify the result of said vote and determination to the Board of Firemen's Relief and Retirement Fund Trustees for that city or town, which said certificate shall be authority for the governing body of such city or town to make such deductions from salaries and apply such deductions or payments to such Fund.

Allowances to beneficiaries of deceased members

Sec. 12. If any member of any department, as herein defined, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever; or if while in service, any member shall die from any cause growing out of and/or in consequence of the performance of his duty; or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate and shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, said Board of Trustees shall order paid a monthly allowance as follows: (a) to the widow, so long as she remain a widow and provided she shall have married such member prior to his retirement, a sum equal to one-third of the average monthly salary of the deceased at the time of his retirement on allowance or death; (b) to the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years; (c) to the dependent parent only in case no widow is entitled to allowance, the amount the widow would have received to be paid to but one parent and such parent to be determined by the Board of Trustees, and (d) in the event the widow dies after being entitled to her allowance as herein provided, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each such dependent minor child; provided however, that the total allowance to be paid all beneficiaries or dependents as herein provided shall not exceed the monthly allowance to be paid the pensioner had he continued to live or be retired on allowance at the date of his death; and further provided, that if such amount be insufficient to pay the full schedule of benefits as herein provided such benefits shall be prorated. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

Exemption of benefits from judicial process

Sec. 13. No portion of said Firemen's Relief and Retirement Fund shall, either before or after its order of disbursement by said Board of Trustees to such retired or disabled fireman or the widow, the guardian of any minor child or children, or the dependent parent of any such deceased, retired, or disabled fireman, be ever held, seized, taken, subjected to, or detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, order, or decree, or any process, or proceedings whatsoever issued out of, or by, any Court of this State for the payment or satisfaction in whole or in part, of any debt, damage, claim, demand, or judgment against such fireman or his widow, the guardian of his minor child or children, his dependent father or mother, nor shall said Fund nor any claim thereto be directly or indirectly assigned or transferred and any attempt to transfer or assign the same shall be void. Said Fund shall be sacredly held, kept, and disbursed for the purposes provided by this Act and for no other purpose whatever.

Certificate to firemen eligible to retirement or disability allowance; continuance in service

Sec. 14. Any fireman possessing the qualifications and being eligible for voluntary retirement, but who shall elect to continue in the service of such fire department, may apply to the Board of Trustees for a certificate, and if found to possess such qualifications and be eligible for retirement as herein provided, the Board of Trustees shall issue to such

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fireman a certificate showing him to be entitled to retirement or disability allowance and upon his death such certificate shall be prima facie proof that his widow and/or dependents shall be entitled to their respective allowances without further proof except as to her or their relationship.

Medical examination of persons retired for disability

Sec. 15. The Board of Trustees, in its discretion, at any time, may cause any person retired for disability, under the provisions of this Act to appear and undergo a medical examination by the city physician or any other physician appointed or selected by the Board of Trustees for the purpose, and the result of such examination and report thereof by said physician shall be considered by said Board of Trustees in determining whether the relief in said case shall be continued, increased (if less than the maximum provided herein), decreased, or discontinued. Should any person receiving relief under the provisions of this Act, after due notice from said Board of Trustees, to appear and be re-examined, unless excused by said Board, fail to appear or refuse to submit to re-examination, said Board of Trustees is authorized in its discretion, to reduce or entirely discontinue such relief.

Recall for duty in emergency

Sec. 16. Any retired fireman may be recalled to duty in case of great conflagration and shall perform such duty as the chief of the fire department may direct, but shall have no claim against such city or town for payment for such duty so performed.

Payments to dependents on conviction of members

Sec. 17. Whenever any person who shall have been granted an allowance hereunder shall have been convicted of a felony, then the Board of Trustees shall order the allowance so granted or allowed such person discontinued, and in lieu thereof, order paid to his wife, and/or dependent child, children or dependent parent, the amount herein provided to be paid such dependent or dependents in case of the death of the person so originally granted or entitled to allowance.

Appeals by persons aggrieved by decision or order of Board of Trustees

Sec. 18. Any person possessing the qualifications herein required for retirement for length of service or disability or having a claim for temporary disability who deems himself aggrieved by the decision or order of any Board of Trustees, whether because of rejection or the amount allowed, may appeal from the decision or order of such Board of Trustees to the Firemen's Pension Commissioner by giving written notice of intention to appeal, which said notice shall contain a statement of his intention to appeal, together with a brief statement of the grounds and reasons why he feels aggrieved and which said notice aforesaid shall be served personally upon the chairman or secretary-treasurer of said Board of Trustees within twenty (20) days after the date of such order or decision. After service of such notice, the party appealing shall file with the Firemen's Pension Commissioner a copy of such notice of intention to appeal, together with the affidavit of the party making service thereof showing how, when, and upon whom said notice was served. Within thirty (30) days after service of such notice of intention to appeal upon said Board of Trustees the secretary-treasurer thereof shall make up and file with the Firemen's Pension Commissioner a transcript of all papers and proceedings in such case before said Board and when the copy of the notice of intention to appeal aforesaid and said tran-

script shall have been filed with said Firemen's Pension Commissioner, said appeal shall be deemed perfected and said Firemen's Pension Commissioner shall docket said appeal, assign same a number, fix a date for hearing said appeal, and notify both appellant and the Board of Trustees of the date so fixed for hearing, at which hearing either may appear before said Commissioner if they so desire. The Firemen's Pension Commissioner may, at any time before rendering his decision upon such appeal, require or request further or additional proof or information, either documentary or under oath. After consideration of said appeal, said Commissioner shall announce his decision in writing, giving to each party to such appeal a copy and shall direct said Board of Trustees as to the disposition of the case. A final decision or order by such Firemen's Pension Commissioner may be appealed and an appeal therefrom may be taken to the proper Court of Travis County, Texas, having jurisdiction of the subject matter, upon the serving within twenty (20) days after date of such decision or order of a notice in writing of such intention to so appeal upon the adverse party.

Firemen's Pension Commissioner

Sec. 19. For the purposes of co-ordinating the reports of the various Boards of Firemen's Relief and Retirement Fund Trustees; to provide examination from time to time of the accounts of such Boards; to determine and certify to the State Treasurer such Boards as shall, under provisions of this Act, qualify for and be entitled to consecutive apportionment from said Firemen's Relief and Retirement Fund and to hear, determine, and review appeals from the decision or order of any of such Boards of Trustees, there is hereby created the office of Firemen's Pension Commissioner, whose office shall be located in the City of Austin, Texas, to be appointed biennially by the Governor from a list of not less than three (3) nor more than ten (10) nominees submitted by the State Firemen's and Fire Marshal's Association of Texas. Such Commissioner shall be appointed for a term of two (2) years beginning July 1, 1937, and shall receive an annual salary of Three Thousand, Six Hundred Dollars (\$3,600) payable in monthly installments of Three Hundred Dollars (\$300) per month, together with the necessary office expenses, postage, stationery, office fixtures, and supplies, not to exceed the sum of Fifteen Hundred Dollars (\$1500) annually, together with his actual traveling expenses when necessary, to be paid by voucher of the State Treasurer from said Firemen's Relief and Retirement Fund. Such Commissioner shall have authority to examine the accounts and records of the various Boards of Trustees; shall make rules and regulations not otherwise provided herein, and prepare forms for use by the various Boards of Trustees in order to assist in the work and duties thereof; shall classify and co-ordinate the reports of the various Boards of Trustees and shall issue his certificate to the State Treasurer, not later than April 1st of each year, certifying such Boards of Trustees as shall, in his opinion, have complied with the provisions of the Act thereby becoming entitled to apportionment from said Funds for the coming current year, shall examine and approve or disapprove any and all applications of the Boards of Trustees for additional apportionment from the emergency reserve of said Fund as herein provided; shall hear, determine, and/or review all appeals herein provided and shall do any and all things within his power and as he may deem necessary to facilitate and assist in the purpose for which such Firemen's Relief and Retirement Fund is created.

Application by Board of Trustees for additional temporary apportionment

Sec. 20. Whenever any Board of Trustees shall find the fund as herein provided and within their control insufficient to meet the demands

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against such funds, such Board of Trustees may make written application to the Firemen's Pension Commissioner for additional temporary apportionment from the emergency reserve of such Fund, such application by the sworn statement of at least three (3) members of such Board of Trustees showing that the department applying for such temporary apportionment has assessed its members the maximum assessment provided hereunder and showing further the necessity and reasons for such additional temporary apportionment and if approved by the Firemen's Pension Commissioner, he shall certify his approval to the State Treasurer and shall order the amount to be allowed on such application within the following limits, to wit: to Boards in cities or towns having a population of ten thousand (10,000) or less, not to exceed the sum of One Thousand Dollars (\$1,000) annually; to Boards in cities or towns having a population of more than ten thousand (10,000) but less than twenty-five thousand (25,000), not to exceed the sum of One Thousand, Five Hundred Dollars (\$1,500) annually; to Boards in cities or towns having a population of twenty-five thousand (25,000) or more, but less than fifty thousand (50,000), not to exceed the sum of Two Thousand Dollars (\$2,000) annually; to Boards in cities or towns having a population of fifty thousand (50,000) or more, but less than one hundred thousand (100,000), not to exceed the sum of Two Thousand, Five Hundred Dollars (\$2,500) annually; to Boards in cities or towns having a population of one hundred thousand (100,000) or more, but less than one hundred and fifty thousand (150,000), not to exceed the sum of Three Thousand, Two Hundred and Fifty Dollars (\$3,250) annually; to Boards in cities or towns having a population of one hundred and fifty thousand (150,000) or more, but less than two hundred thousand (200,000), not to exceed the sum of Four Thousand Dollars (\$4,000) annually; and to Boards in cities or towns having a population of two hundred thousand (200,000) or more, not to exceed the sum of Five Thousand Dollars (\$5,000) annually. Upon such certificate of approval of such application by the Firemen's Pension Commissioner, the State Treasurer shall pay to such applicant Board the sum stated in such certificate from the emergency reserve of said Firemen's Relief and Retirement Fund and in addition to the amount to be paid such Board under the regular apportionment as herein provided due such Board.

Computation of length of service

Sec. 21. In computing the time or period for retirement for length of service as herein provided, less than one year out of service or any time served in the armed forces of the Nation during war or National emergency shall be construed as continuous service, but if out more than one year and less than five (5) years, credit shall be given for prior service, but deduction made for the length of time out of service. If out of service more than five (5) years no previous service shall be counted, provided however, that if a fireman be out of service over five (5) years through no fault of his own and subsequently returns to the department, this period of time shall not be counted against him in so far as his retirement time is concerned. Any fireman joining any regularly organized fire department coming within the provisions of this Act after the effective date hereof shall not be entitled to benefits hereunder until he shall have served one year continuously.

City attorney to represent Board of Trustees in appeals

Sec. 22. It shall be and is hereby made the duty of the City Attorney, without additional compensation, to appear for and represent the Board of Trustees of that city or town in all cases of appeal to the

Firemen's Pension Commissioner by any claimant from the order or decision of such Board of Trustees.

Investment of surplus

Sec. 23. Whenever, in the opinion and judgment of said Board of Trustees, there is on hand in the said Firemen's Relief and Retirement Fund for that city or town, a surplus over and above a reasonably safe amount to take care of the current demands upon such Fund, such surplus or so much thereof as in the judgment of said Board is deemed proper, may be invested in Federal, State, County, or Municipal Bonds, and the interest therefrom and thereon shall be deposited into said Fund as a part thereof.

Action for recovery of benefits wrongfully obtained

Sec. 24. The Board of Trustees of any city or town as herein created and constituted shall have the power and authority to recover by civil action from any offending party or from his bondsmen, if any, any moneys paid out or obtained from said Fund through fraud, misrepresentation, defalcation, theft, embezzlement, or misapplication and may institute, conduct, and maintain such action in the name of said Board of Trustees for the use and benefit of such Fund.

Pro rata reduction of benefits on deficiency

Sec. 25. If, for any reason the Fund or Funds hereby made available for any purpose covered by this Act shall be insufficient to pay in full any allowance or disability benefits then all granted allowances, or disability benefits shall be proratably reduced for such time as such deficiency exists.

Definitions

Sec. 26. Whenever used herein, the term "Board" or "Board of Trustees" shall be deemed to mean and refer to the Board of Firemen's Relief and Retirement Fund Trustees.

Whenever used herein, the term "firemen" or "fireman" shall be deemed to mean and include all active members of any regularly organized fire department of any incorporated city or town of this State, having fire fighting equipment or apparatus of the minimum value of One Thousand Dollars (\$1,000) or more whether wholly paid, partly paid and partly volunteer, or wholly volunteer. All other members shall be deemed honorary or inactive members and as such shall not be entitled to any of the benefits provided by this Act.

Whenever used herein, the term "active firemen," "active fireman," or "active members" shall be deemed to mean and include all paid firemen who receive regular salaries as firemen and such partly paid or volunteer firemen as in each calendar year answer at least twenty-five (25) per cent of all fire alarms and at least forty (40) per cent of all drill or practice calls.

Partial invalidity

Sec. 27. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof and all other provisions shall remain valid and unaffected by any invalid portion, if any.

Provisions cumulative of other acts

Sec. 28. The provisions hereof shall be cumulative of and in addition to all other laws and particularly Articles 6229 to 6243 inclusive and all Acts amendatory thereof, which are hereby preserved and continued in force and effect. [Acts 1937, 45th Leg., H.B. #258.]

3. OLD AGE ASSISTANCE

Art. 6243—2. Purpose

It is hereby declared to be the intention and purpose of the Legislature by and through the enactment of this Act to provide, in part, for the payment of old age assistance benefits, by raising revenues for such purpose and by delimiting the class of persons who shall be eligible for old age assistance benefits. It is recognized by the Legislature that it is impracticable to pay benefits to persons over sixty-five (65) years of age, except those who are in necessitous circumstances; in order that the needy aged may be cared for, it is necessary that the State have funds on hand to meet the accruing obligations therefor. In order to accomplish this purpose, the Legislature declares that it is necessary to accomplish two incidental objectives, namely: (1) the number of persons receiving old age assistance benefits must be decreased, and (2) in addition, more revenues must be provided for the purposes of paying such benefits. The accomplishment of this object is the purpose of this Act. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 1, § 1.]

Art. 6243—3. Persons entitled to assistance

Subject to the provisions of this Act, needy persons residing in Texas over the age of sixty-five (65) years who are in necessitous circumstances shall be entitled to financial assistance from the State of Texas. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 1.]

Art. 6243—4. State Board of Control as Texas Old Age Assistance Commission; compensation; expenses

In addition to the duties now imposed by law, the State Board of Control is hereby charged with the duty of administering this Act, and, for the purpose of administering the provisions of this Act, the State Board of Control shall be known as and shall constitute the Texas Old Age Assistance Commission. Whenever the word "Commission" is used in this Act, it shall mean the Texas Old Age Assistance Commission, which shall be composed of the members of the Board of Control. As members of the Texas Old Age Assistance Commission each member of the Board of Control shall be compensated, in addition to the compensation they now receive by law, on the basis of One Thousand Two Hundred Dollars (\$1,200) per year, which shall be paid in equal monthly installments out of the Old Age Assistance Fund herein created. The members of the Commission shall be entitled to all reasonable and necessary expenses incurred in the discharge of official duties, such allowance, however, not to exceed the sum fixed by law for other State officials in the discharge of similar duties. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 2.]

Art. 6243—5. Qualifications for assistance

The Commission may grant financial aid to any needy person who is in necessitous circumstances provided such person

- (a) Has attained the age of sixty-five (65) years;
- (b) Is a citizen of the United States;

(c) Has resided in the State of Texas for five (5) years or more within the last nine (9) years preceding the date of his application for assistance, and has resided in the State of Texas continuously for one (1) year immediately preceding the application. The terms "residence,"

“residing” and “resided” as used in this Act shall denote actual physical presence within this State as distinguished from the word “domicile” and the word “residence” as used in their broader meaning.

(d) Is not at the time of receiving such aid an inmate of any public or private home for the aged, or any public or private institution of a custodial, correctional, or curative character, provided, however, that aid may be granted to persons temporarily confined in private institutions for medical or surgical care;

(e) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for such aid;

(f) Is not an habitual criminal or an habitual drunkard;

(g) Is unable to support himself and has no husband or wife able to furnish him or her with support, and has no other means of support. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 3.]

Art. 6243—6. Duties of Commission in determining eligibility of applicants for assistance

In determining the eligibility of an applicant for assistance under this Act, it shall be the duty of the Commission to consider and take into account all facts and circumstances surrounding the applicant, including his earning capacity and his opportunity to obtain support from other sources, and if from all the facts and circumstances the applicant does not appear to be in a needy and necessitous condition, assistance shall be denied. In calculating income and resources of the applicant, the Commission shall take into account all money received by gift, devise or descent. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 4.]

Art. 6243—7. Offices, records, equipment, money, etc., of prior Commission to be turned over

On the effective date of this Act each member of the Texas Old Age Assistance Commission created under the provisions of House Bill No. 26, Acts Second Called Session of the Forty-fourth Legislature,¹ and each agent, officer and employee of said Commission, shall deliver to the Board of Control all furniture, fixtures, files, books, records, accounts, data and equipment belonging to the State of Texas or appertaining to his office or employment and the Board of Control shall receive and receipt for same. Each member, agent, and officer of said Commission shall pay over to the officer lawfully authorized to receive the same all money coming into his hands as such and shall also deliver to said Board of Control the possession of the offices and premises occupied by said Commission. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 5.]

¹ Article 6243—1, ante.

Art. 6243—8. Executive Director; qualifications; Chief Auditor; salaries; fidelity bonds

(a) On the effective date of this Act the Board of Control, acting as the Texas Old Age Assistance Commission, shall select and appoint an Executive Director of the Texas Old Age Assistance Commission, who shall be not less than thirty-five (35) years of age at the date of his appointment, who is a resident citizen of the State of Texas and who shall have resided within the State for at least ten (10) years preceding the date of his appointment, who shall not be an occupant of any elective State office at the time of his appointment nor have occupied any elective State office during the six (6) months next preceding the date of his said appointment, and who shall be paid an annual salary of Five Thousand Dollars (\$5,000) in equal monthly installments. The said Old Age

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Assistance Commission shall also appoint a Chief Auditor who shall be paid an annual salary of Four Thousand Dollars (\$4,000) in equal monthly installments. The Executive Director and the Chief Auditor shall make and execute a bond in form prescribed by the Attorney General, payable to the Governor of Texas, in the sum of Thirty Thousand Dollars (\$30,000) conditioned upon their faithful performance of the duties imposed upon them by law. The premium on such bonds shall be paid out of the funds herein appropriated for operating expenses, and any recovery on such bonds shall inure to the benefit of the Old Age Assistance Fund.

Administrative duties of Executive Director

(b) The Executive Director, under the direction of the Old Age Assistance Commission, shall be the chief administrative officer of said Commission, and as such shall be responsible for the proper and economical administration of the affairs of such Commission. He shall have the power and authority, with the consent and approval of a majority of the members of the Commission, to select, appoint and discharge such assistants, clerks, stenographers, auditors, bookkeepers and clerical assistants as may be necessary in the administration of the duties imposed upon such Commission within the limits of the appropriations that may be made for the work of said Commission; salaries of all such employees shall be fixed by the Commission in keeping with salaries paid other State employees performing similar work and holding similar positions. The Commission is authorized to require bond or bonds from any and all of its employees in such amounts as it may designate, and in such form as may be prescribed by the Attorney General, whenever in its discretion such bonds may be deemed necessary and advisable, and the premiums on such bond or bonds shall be paid out of the Texas Old Age Assistance Fund.

Hearings on applicants' appeals

(c) The Commission shall provide for the holding of hearings in all appeals by applicants for aid or assistance where such aid or assistance has been denied by the local administrative agency to which application was made; provided that such hearings may be conducted by any one of the members of the Commission or for any employee designated by the Commission to hold the same. When such hearings are conducted by less than a majority of the Commission or by any employee, a transcript of all testimony taken shall be prepared and filed with the Commission and any order therein must be signed by a majority of the Commission.

Methods of administration

(d) The Commission shall provide for such methods of administration (other than those relating to selection, tenure of office and compensation of personnel) as are found by the United States Social Security Board to be necessary for the efficient operation of the plan of Old Age Assistance herein established.

Reports to Social Security Board

(e) The Commission shall make such reports in such form and containing such information as the Social Security Board may from time to time require, and comply with such provisions as said Social Security Board may from time to time find necessary to assure the correctness and verification of such reports. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 6.]

Art. 6243—9. Local administration; qualifications of employees

The Commission shall have full power and authority to provide such method of local administration in the various counties and districts of Texas as it deems advisable, and shall provide such personnel as may be found necessary for carrying out in an economical way the administration of this Act; provided, however, that all employees of the Commission shall have been residents of the State of Texas for a period of at least four (4) years next preceding their employment. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 7.]

Art. 6243—10. Expenses of administration; limitation

The expenses of administering this Act shall never exceed five per cent (5%) of the total amount expended for Old Age Assistance; provided, however, that the Commission is empowered to accept any funds appropriated and allocated to the State of Texas for administrative expense by the Federal government or the Social Security Board, and same may be expended for administrative purposes in addition to that allowed for administrative purposes out of State funds expended. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 8.]

Art. 6243—11. Applications for assistance; form; applications under prior act

Any person over the age of sixty-five (65) years may present or mail an application in writing for an old age assistance grant to the local administrative agency designated by the Commission to receive the same. Such application shall be upon forms prescribed by the Commission, shall be duly sworn to before some officer authorized by the laws of this State to administer oaths, and shall contain such information as may be required by the Texas Old Age Assistance Commission, and such application shall state that it is made for old age assistance under the provisions of House Bill No. 8, Acts, Forty-fourth Legislature, Third Called Session.¹ The Texas Old Age Assistance Commission may accept any applications for assistance that have been heretofore filed with the Texas Old Age Assistance Commission created by House Bill No. 26, Act, Forty-fourth Legislature, Second Called Session,² under the provisions of that Act, if it appears to the said Commission that such applications satisfy the provisions of this Act; provided, however, that the Commission shall be authorized to require the filing of a new application in any or all of such cases. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 9.]

¹ This Act.

² Article 6243—1, ante.

Art. 6243—12. Investigation of application by local administrative agency; order; review; hearing

Upon the filing of such application for aid or assistance, it shall be the duty of the local administrative agency in the county or district in which such application is made to investigate, or cause to be investigated in the manner required by the Commission, such sworn statements appearing in such application to determine the truth or falsity of statements therein contained, said agency having the power and authority to compel the attendance of witnesses, administer oaths, and compel the production by subpoenas duces tecum of books and records and the furnishing of such other affidavits and information as it may deem necessary and advisable. After an examination of the application and such investigation as to the truth or falsity of the statements contained therein as may be deemed necessary, the local agency shall enter an order upon

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such application either granting the same in whole or in part, or denying the same, and a copy of such order shall be furnished to the applicant and a copy to the Commission, provided, that nothing herein shall be construed as denying or interfering with the right of the Commission to review such order prior to the entering thereof and require any modification not inconsistent with the law and the rules and regulations of the Commission. Any applicant who is dissatisfied with the order made by the local administrative agency shall have the right to appeal to the Commission by giving written notice of such dissatisfaction to said Commission. When the Commission has been notified of the dissatisfaction of any applicant with an order made by a local agency, it shall command the local agency to transmit to the Commission the originals or certified copies of all records, affidavits, instruments, testimony or other evidence taken in connection with such application. The Commission shall make a full and complete examination of the record before it and if, after such examination, it is of the opinion that the aid or assistance should be allowed or increased, it shall enter an order allowing or increasing the assistance or aid to the applicant and shall forward a copy of this order to the applicant and a copy thereof to the local administrative agency. If after examining the records before it, the Commission is of the opinion that aid or assistance should not be awarded to the particular applicant or that the amount thereof as awarded by the local agency should not be increased, the Commission shall set the matter down for hearing and shall give written notice of the time and place of such hearing to the applicant, at which hearing the applicant shall have the right to appear in person and testify, or to present any other evidence or testimony written or otherwise, to sustain his application. As soon after such hearing as possible and practicable the Commission shall enter a final order on such application, mailing a copy thereof to the applicant and a copy to the local administrative agency, from which said final order there shall be no right of appeal. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 10.]

Art. 6243—13. Amount of assistance

(a) The amount of old age assistance or aid from State funds that may be paid to any applicant, who has qualified under the terms of this Act, shall never exceed the sum of Fifteen Dollars (\$15) per month, and in addition thereto such funds as the Federal government may appropriate and allocate to the State of Texas from time to time shall be distributed among recipients of assistance in like manner as State Funds are paid under the terms of this Act; provided, that in no case shall such aid or assistance be in an amount which, when added to the income of the applicant from all other sources, including income from property and from the State and Federal government, shall exceed a total of Thirty Dollars (\$30) per month; provided that the assistance granted herein shall be granted in such amounts as will provide reasonable subsistence not incompatible with good health and decency.

Texas Old Age Assistance Fund

(b) For the purpose of paying the aid and assistance to needy citizens of Texas herein provided for, and for the purpose of defraying the expenses of administering this Act, there is hereby created and established a special fund in the Treasury of the State of Texas, to be kept by the State Treasury separate and apart from all other funds, and to be known as the "Texas Old Age Assistance Fund," and for the purposes above set out there is hereby appropriated out of such funds all amounts received and credited to said fund, or so much thereof as may be necessary, for the fiscal year ending August 31, 1937. Provided that if

the fund is insufficient to pay all grants in full, the same shall be paid pro rata based on the amount granted to each recipient. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 11; Acts 1937, 45th Leg., S.B. #415, § 1.]

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Paragraph (c) of section 11, article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, made certain appropriations.

Paragraph (d) of section 11, article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, provided that all moneys paid out of the General Fund under this article should be repaid out of the first moneys accruing to the benefit of the Texas Old Age Assistance Fund, and authorized the State Treasurer to transfer the funds necessary to make the repayment.

Section 14 of article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, authorized the State Treasurer to transfer all funds to the credit of the Texas Old Age As-

sistance Fund created by Acts 1935, 44th Leg., 2nd C.S., p. 1854, ch. 472 (art. 6243—1, ante; Vernon's Rev. Pen. Code, art. 427d) to the Texas Old Age Assistance Fund created by this Act.

Section 22 of article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, repealed section 10 of Acts 1935, 44th Leg., 2nd C.S., p. 1854, ch. 472 (article 6243—1, § 10, ante), and provided that: "The Commission, together with the Comptroller and the Treasurer, shall convert into cash all securities in which the funds of the Permanent Old Age Pension Fund have heretofore been invested, and all funds and moneys which have heretofore been deposited to the credit of the Permanent Old Age Pension Fund are hereby appropriated to the Texas Old Age Assistance Fund."

Art. 6243—14. Applications and beneficiaries under prior act; rights under this act not to be construed as vested; assistance grant inalienable; bankruptcy; gifts or contributions to fund

(a) It shall be the duty of the Commission to review and examine the applications of all persons to whom grants of assistance have heretofore been made under the provisions of House Bill No. 26, Acts, Forty-fourth Legislature, Second Called Session,¹ and to determine, under the provisions of this Act, the eligibility of such applicants for old age assistance; provided that the Commission shall be authorized to promulgate and adopt such rules and regulations as may be necessary immediately to make grants of assistance to such of those persons as may be eligible under the provisions of this Act. All of such persons who have been heretofore receiving old age assistance under the provisions of House Bill No. 26, Acts of the Forty-fourth Legislature, Second Called Session, who shall not be found to be immediately eligible under such procedure as may be adopted by the Commission under the provisions of the preceding sentence herein, shall be investigated in the manner prescribed by Section 10 of this Act.²

Whenever it is found, by investigation of the local administrative agency, or otherwise, that assistance has been granted to any person who is not eligible therefor, the Executive Director shall immediately order such assistance terminated and shall furnish a copy of such order to the applicant and a copy to the local administrative agency, and from such order the applicant shall have the right to appeal to the Commission, and when assistance to any person has been terminated, no further payments shall be made to such person until the Board shall have determined on appeal that such payments be resumed.

(b) The provisions of this Act providing for old age assistance shall not be construed as a vested right in the recipient of old age assistance.

(c) An old age assistance grant shall be absolutely inalienable by any assignment, power of attorney, sale, charge, or execution or other legal process, and in case of bankruptcy the assistance shall not pass through any trustee or other person acting on behalf of creditors.

(d) The Commission is authorized to accept on behalf of the Old Age Assistance Fund any gifts, deeds or bequests of any money or other property, the proceeds of which shall accrue to the benefit of the Old

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Age Assistance Fund. In making such gifts or contributions the donor shall attach no conditions whatever. The sole management and disposition of the property so received shall be in the Commission. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 12.]

¹ Article 6243—1, ante.

² Article 6243—12, ante.

Art. 6243—15. Payment of assistance benefits; list of persons entitled to assistance

(a) All old age assistance benefits provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the Texas Old Age Assistance Fund; for the purpose of permitting the State Comptroller properly to draw and issue such vouchers or warrants, the Texas Old Age Assistance Commission shall furnish the Comptroller with a list or roll of those entitled to assistance from time to time, together with the amount to which each recipient is entitled. When such vouchers or warrants have been drawn, they shall be delivered to the Executive Director of the Texas Old Age Assistance Commission, who in turn shall supervise the delivery of the same to the persons entitled thereto.

(b) The Commission shall furnish monthly to the county clerk of each county a list showing the names of all persons in such county receiving old age assistance and the amount thereof. Such list shall be a public record in such county and as such shall be available for public inspection at all reasonable hours. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 13.]

For section 14 of article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, see note to article 6243—13, ante.

Art. 6243—16. Effect of federal assistance

All grants of assistance or aid from the Federal government and its agencies shall not be considered as a part of the State assistance herein granted, but shall be regarded as a separate grant of assistance or aid. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 15.]

Art. 6243—17. Assistance subject to amending or repealing act

Every assistance granted under the provisions of this Act shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing Act that may be hereafter enacted, and no recipient under this Act shall have any claim for compensation or otherwise by reason of his assistance being affected in any way by such amending or repealing Act. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 16.]

Art. 6243—18. Construction of act

Whenever in this Act the masculine pronoun is used, it shall be held to include the feminine pronoun also. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 17.]

Art. 6243—19. Conviction as termination of assistance

If any recipient under this Act is convicted of any crime, misdemeanor or felony, or other offenses, punishable by imprisonment for a period of six (6) months or longer, such fact shall be reported to the Old Age Assistance Commission and the said Commission may direct that pay-

ments to such recipient be defaulted and withheld for such period. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 18.]

Section 19 of article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, being a penal provision, is published as Vernon's Rev. Pen. Code, art. 427c.

Art. 6243—20. Repeal

All laws and parts of laws in conflict herewith are hereby repealed. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 20.]

Art. 6243—21. Partial invalidity

If any section, subsection, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not affect the remaining portions of this Act. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 21.]

Section 22 of article 2 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, repealed section 10 of Acts 1935, 44th Leg., 2nd C.S., p. 1854, ch. 472, (article 6243—1, § 10, ante), and provided that: "The Commission, together with the Comptroller and the Treasurer, shall convert into cash all securities in which the funds of the Perma-

nent Old Age Pension Fund have heretofore been invested, and all funds and moneys which have heretofore been deposited to the credit of the Permanent Old Age Pension Fund are hereby appropriated to the Texas Old Age Assistance Fund."

Art. 6243—22. Permanent Old Age Pension Fund; liquidation

Sec. 1. The Treasurer of the State of Texas is empowered and directed to immediately sell and liquidate any and all bonds or interest bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States that have been deposited in the Permanent Old Age Pension Fund and the gross proceeds from such sale and liquidation shall be immediately redeposited in the Permanent Old Age Pension Fund.

Transfer to Texas Old Age Assistance Fund

Sec. 2. It is further provided that there is hereby appropriated and transferred all monies, choses in action, funds and things of value now a part of and accumulated in the Permanent Old Age Pension Fund into the Texas Old Age Assistance Fund to be used by the Old Age Assistance Commission for the sole purpose of paying Old Age Assistance Grants to applicants whose applications have been and may be approved and allowed; and be it further provided that no portion of said money shall be expended for administrative purposes; and be it further provided that the State Treasurer and all other accounting officers in the State are hereby authorized and directed to take such action as may be necessary to effectuate this appropriation and transfer. [Acts 1936, 44th Leg., 3rd C.S., p. 1989, ch. 479.]

Art. 6243—23. Warrants against Texas Old Age Assistance Fund; interest

Sec. 1. The Texas Old Age Assistance Commission is hereby authorized to pay interest, so long as said warrants are unpaid, on warrants issued against the Texas Old Age Assistance Fund for the payment of old age assistance benefits when the cash balance of the moneys deposited to the credit of said fund by the State of Texas is insufficient to pay in cash the State's part of the pension requirements, and there is hereby appropriated out of any moneys appropriated to the Texas Old Age Assistance Fund a sufficient amount to pay interest charges accruing under this Act, but in the event that interest is paid on or on account

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of such warrants as authorized in this Act, no such warrant, issued for a single month, including both principal and interest paid thereon or therefor, shall ever exceed Fifteen Dollars (\$15) of State money.

Sec. 2. The form and method of issuing such warrants and of paying the interest thereon as herein authorized shall be prescribed by the Texas Old Age Assistance Commission. The Comptroller and the Treasurer are authorized and directed to perform such duties as are required of them under authority of this Act to accomplish its purpose.

Sec. 3. Before the issuance of any such warrants, the State Banking Board shall, upon application by the Old Age Assistance Commission, determine the rate of interest which shall be paid on account of such warrants as authorized herein, such interest rate never to exceed two and one-half (2½) per centum per annum.

Sec. 4. The authority conferred by this Act to pay said interest shall not be limited by the provisions of Section 6 of Chapter 472, Acts of the Second Called Session of the Forty-fourth Legislature.¹

Sec. 5. For the purposes of this Act and until the appropriation made in House Bill No. 8, now pending in this, the Third Called Session of the Forty-fourth Legislature,² becomes available, the unexpended balance of the appropriation made in Chapter 472 of the Acts of the Second Called Session of the Forty-fourth Legislature for the purpose of paying Old Age Assistance and defraying the expense of the administration of the Old Age Assistance Act is hereby reappropriated. The unexpended balance of the appropriation made in said House Bill No. 8 remaining on hand on August 31, 1937, is hereby reappropriated for the purposes of this Act for the fiscal year ending August 31, 1938, to assure the payment of any warrants issued under the provisions of this Act. Provided, however, that the power conferred in this Act does not authorize the issuance of more than Three Million Dollars (\$3,000,000) of warrants upon which or on account of which interest may be paid, and provided further that no such warrants shall be issued after March 1, 1937.

Sec. 6. This law shall be cumulative of all other laws on the subject, but in event any provision of this Act shall be in conflict with the provisions of any other law, the provisions of this Act shall have precedence and shall be fully effective. [Acts 1936, 44th Leg., 3rd C.S., p. 2084, ch. 496.]

¹ Article 6243—1, § 6, ante.

² Articles 6243—2 et seq., ante.

TITLE 112—RAILROADS

CHAPTER ELEVEN—RAILROAD COMMISSION OF TEXAS

Art.
6472b. Depositions in matters pending before Transportation Division of Commission [New].

Art. 6472b. Depositions in matters pending before Transportation Division of Commission

Section 1. In all matters pending for hearing before the Motor Transportation Division of the Railroad Commission of Texas, the applicant or any party at interest (as hereinafter defined) shall have the right to produce the testimony of witnesses by written deposition instead of compelling personal attendance by such witnesses. For this purpose, the Secretary of the Railroad Commission is hereby empowered and author-

ized to issue commission and other process necessary for the purpose of taking such deposition; provided, however, the failure to secure the personal attendance of a witness shall not be deemed a want of diligence.

Notice; cross interrogatories; issuance of commission

Sec. 2. The party desiring to take the written depositions pertaining to any cause pending before the Motor Transportation Division of the Railroad Commission shall file with the Secretary of the Commission a notice of his intention to apply for a commission to take such depositions, and a copy of such written interrogatories shall be attached to such notice. The notice shall state the name and residence of the witness, or the place where he is to be found, and the application and the docket number in which the interrogatories are to be used, and a copy of such notice and the attached interrogatory shall be served upon each party at interest, or his attorney of record, or attorney in fact, at least five (5) days before the issuance of a commission. Any party at interest desiring to file cross interrogatories shall cause the same to be filed with the Secretary of the Commission on or before the date for the issuance of such commission. Such service may be had by leaving, during office hours, a copy of the notice and the attached interrogatories at the principal office in this State of each party at interest, as the records of the Commission reflect the location and address of such principal offices. Five (5) days after the service of the notice of filing the interrogatories has been completed, the Secretary of the Commission shall issue a commission to take the depositions of the witness or witnesses named in the notice. More than one witness residing in the same county may be included in the same commission.

Commission, style and form of

Sec. 3. The style of the commission shall be "The State of Texas". It shall be dated and attested as other processes, and addressed to such officer authorized under Article 3647, Revised Civil Statutes of Texas, 1925, to execute such commission, and shall authorize or require them or either of them to summon the witnesses before him forthwith to take his answers under oath to the written direct and cross interrogatories propounded to him in writing by the respective parties, or their attorneys of record in said cause. Such Commission shall authorize the office before whom the depositions are being taken, to require such witness or witnesses to remain in attendance from day to day until such written depositions have been completed.

Provisions cumulative; exception

Sec. 4. The provisions of this Act are not intended to repeal but to be cumulative of the Articles of the Revised Civil Statutes of Texas, 1925, relating to the procedure for taking depositions of witnesses by written direct and cross interrogatories, except as may be otherwise provided herein; provided, however, that the provisions of Articles 6472 and 6472a, Revised Civil Statutes, of Texas, 1925, shall not be applicable to proceedings before the Motor Transportation Division of the Railroad Commission of Texas.

"Party at interest," defined

Sec. 5. The term "party at interest" means any railroad or other common carrier lawfully operating under the jurisdiction of the Railroad Commission of Texas and/or the Interstate Commerce Commission directly through or into any incorporated city or town situated on the route cov-

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ered by the application in which such written interrogatories are to be taken.

Carrier to designate attorney in fact for service in taking depositions; effect of failure to designate; request for names and addresses of parties at interest

Sec. 6. It shall be the duty of all common carriers for hire operating within this State to file with the Motor Transportation Division of the Railroad Commission the name and address of an attorney in fact upon whom service may be had in taking depositions. Failure of such carrier to file such designation with the Railroad Commission within a reasonable time after the effective date of this Act shall make it unnecessary to give such party notice of intention to take such deposition. Any person desiring to take depositions as herein provided shall file a written request with the Railroad Commission for the names and addresses of all "parties at interest" affected by the application in question, and the name and address of the attorney in fact of the respective parties at interest upon whom service may be had, and the party taking such deposition shall have the right to rely upon the accuracy of such list of parties at interest. [Acts 1937, 45th Leg., S.B. # 12.]

Effective May 5, 1937.

Section 7 repeals all conflicting laws and parts of laws. Section 8 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for the taking of written depositions in matters pending before the Motor Transportation Division of the Railroad Commission; providing for the

issuance of notice and hearing thereof; the filing of direct and cross interrogatories; designation of attorneys in fact upon whom service may be had; making provisions of this Act cumulative of other Articles of the Revised Civil Statutes, 1925, relating to the procedure for taking depositions; defining "parties at interest"; repealing all laws in conflict herewith; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #12.]

CHAPTER THIRTEEN—MISCELLANEOUS RAILROADS

Art.

6541b. Street and interurban railways abandoned permitted to continue distribution of gas and electricity [New].

Art.

6548a. Certain street and interurban railway corporations authorized to amend charters to include operation as motor carriers [New].

Art. 6541b. Street and interurban railways abandoned permitted to continue distribution of gas and electricity

That all private corporations which have heretofore been incorporated and are now authorized by their charters and the Statutes of this State to operate street and interurban railways with power to distribute and sell gas and/or electricity to the public and which have heretofore abandoned or discontinued or may hereafter abandon or discontinue the operation of street and interurban railways and motor buses substituted therefor are hereby authorized to continue to distribute and sell electricity and/or gas in accordance with their charters and the Statutes during the unexpired period of their corporate charters just as though they continued the operation of said street and interurban railways or motor buses, or both. [Acts 1937, 45th Leg., H.B. # 95, § 1.]

Effective April 26, 1937.

Section 2 of this Act declared an emergency making the act effective on and after its passage.

Title of Act:

An Act providing that all private corporations which have heretofore been incorporated and are now authorized by their

charters and the Statutes of this State to operate street and interurban railways with power to distribute and sell gas and/or electricity to the public and which have heretofore abandoned or discontinued or may hereafter abandon or discontinue the operation of street and interurban railways and motor buses substituted therefor

are hereby authorized to continue to distribute and sell electricity and/or gas during the unexpired period of their corporate charters just as though they continued the operation of said street and interurban railways or motor buses, or both, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #95.]

Art. 6548a. Certain street and interurban railway corporations authorized to amend charters to include operation as motor carriers

Section 1. That private corporations heretofore incorporated for the purpose of operating street or interurban railways, which said private corporations have totally abandoned such operations prior to January 1, 1934, may amend their charters so as to include as a separate purpose of the corporation the acquiring, owning and operating of motor vehicles and motor buses for transportation of passengers for hire upon the public streets and public ways of cities and towns and upon the public ways of the adjacent unincorporated territory within five (5) miles from the limits of such cities and towns, provided however, this limit shall not be construed to prohibit any corporation conforming with this Act from contracting for chartered passenger service beyond said five (5) mile limit, under such reasonable regulations as may be legally imposed from time to time by such cities and towns within the limits thereof and the Commissioners' Courts of counties as now prescribed by Article 6548.

Contiguous cities or towns

Sec. 2. If the boundary of one city or town is contiguous with the boundary or boundaries of another city or town, or other cities or towns, the authority granted under Section 1, hereof to operate within five (5) miles thereof, shall be construed to include any territory within five (5) miles of the limits of any such contiguous city or town.

Regulatory authority of Railroad Commission not affected

Sec. 3. Nothing in this Act shall be construed to deprive the Railroad Commission of Texas, of its exclusive authority to continue the regulation of buses and motor vehicles operating under its jurisdiction; nor shall this Act relieve such operators of the requirement to secure certificates of permits from the Railroad Commission authorizing such operations.

Itemized statement of money and property and value of property to be filed

Sec. 4. Provided before any such amendment may be filed with the Secretary of State the Officers and Directors of any corporation shall file an affidavit with the Secretary of State giving a detailed itemized statement of what money and property is held or owned by it and the actual cash market value of each such item of property. [Acts 1937, 45th Leg., S.B. # 193.]

Became law without Governor's signature May 15, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing private corporations heretofore incorporated for the purpose of operating street or interurban railways, where said private corporations have totally abandoned such operations prior to January 1st, 1934, to amend their charters

so as to include as a separate purpose of the corporation the acquiring, owning and operating of motor vehicles and motor buses for transportation of passengers for hire upon the public streets and public ways of cities and towns and upon the public ways of the adjacent unincorporated territory within five (5) miles from the limits of such cities and towns, provided, however, this limit shall not be construed to prohibit any corporation conforming with this Act from contracting for

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chartered passenger service beyond said five (5) mile limit, under such reasonable regulations as may be legally imposed from time to time by such cities and towns within the limits thereof and by the Commissioners' Courts of counties as to operations outside of the limits of such cities

and towns; providing that nothing in this Act shall be construed as affecting the Railroad Commission's authority to continue regulation of buses and motor vehicles operating under its jurisdiction; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #193.]

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1A. CONSTRUCTION AND MAINTENANCE	Art.
Art.	6674q—14. Bonds of counties of 19,000 to 19,500 population to participate in State Highway Funds [New].
6674q—8a. Bonds of navigation districts [New].	6674r. Bonds of certain counties and road districts entitled to participate in State Highway Fund under certain conditions [New].
6674q—8b. Preference over other bonds by Board of County and Road District Bond Indebtedness unauthorized [New].	6674s. Workmen's Compensation Insurance for Highway Department Employees [New].
6674q—12. State Treasurer as ex officio county treasurer in payment of interest and sinking funds [New].	
6674q—13. Expenditure of Federal funds on roads not part of state highway system [New].	

2. REGULATION OF VEHICLES

6687a. Driver's licenses [New].

[1A. CONSTRUCTION AND MAINTENANCE]

[Art. 6674q—7. Administrative provisions]

(a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or Defined Road Districts of the State, which mature on or after January 1, 1933, and insofar as amounts of same were issued for, and the proceeds actually expended in, the construction of roads that constituted and comprised a part of the system of designated State Highways on September 17, 1932, or that theretofore constituted a part of said system, and which has either been changed, relocated, or abandoned, whether said indebtedness is now evidenced by the obligations originally issued or by refunding obligations, or both; and all bonds, warrants or other evidences of indebtedness which have been issued and sold since September 17, 1932, or which may be hereafter issued and sold by any County or District for the purpose of constructing any designated State Highway pursuant to a contract existing on or before September 1, 1932, between the State Highway Department and any such County or District; and all bonds, warrants or other evidences of indebtedness issued and sold subsequent to September 17, 1932, by Defined Road Districts of the State which have an assessed valuation of not more than Five Million Two Hundred Twenty-five Thousand (\$5,225,000.00) Dollars or less than Five Million One Hundred Thousand (\$5,100,000.00) Dollars according to the last approved tax rolls of said Road Districts, and which had no indebtedness outstanding on September 17, 1932, and which did or does make an agreement with the State Highway Department to issue and sell its bonds for the purpose of constructing a road under the supervision and plans of the State Highway Department which in the construction of such road Public Works Administration grant is received, thereby saving the State greatly in the construction of such Highway and which said Highway was subsequently taken over and constituted and now com-

prises a part of the system of State Designated Highways, shall be eligible to participate as of January 1, 1933, in the distribution of the moneys coming into said County and Road District Highway Fund subject to the provisions of this Act, less, however, the amount of the sinking funds which was required to be accumulated in such funds of the respective counties and Districts under existing laws, and under the provisions of the Statutes and order of the Commissioners' Courts authorizing the issuance of said eligible obligations, and the tax levy authorized at the time of issuance thereof, for the time such obligations have run, regardless of whether the full amount of said funds are actually on hand and to the credit of the sinking funds of the several counties and Defined Road Districts.

It being expressly provided in this connection that the term "sinking funds" shall include only those funds accumulated, and required to be accumulated, under now existing laws for the retirement of bonds, and shall not include any excess or surplus which may have been accumulated by any County or Road District above the legal requirements. The amount of such eligible indebtedness is to be determined as hereinafter provided. In the event the State Highway Commission has, on a date prior to September 17, 1932, indicated its intention of designating as State Highways the public roads of any county or Road District in this State, and has recorded such intention in its official records, then the provisions of this Act shall apply. [As amended Acts 1937, 45th Leg., S.B. # 450, § 1.]

Effective June 11, 1937.

Section 2 of the Amendatory Act of 1937 declared an emergency and provided that the Act should take effect from and after its passage.

Subsection (a) of this article was amended twice at the regular session of the 45th Legislature, namely, by Laws 1937, H.B. #463, effective May 20, 1937, and by Laws 1937, S.B. # 450, effective June 11, 1937. Neither amendment referred to the other. All

of the provisions of the amendment of H.B. #463 are included in subsection (a) as amended by S.B. #450 and as now set out in the text, except the proviso that: "no State funds created or provided for by the terms of this Act, shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations."

(b) The Board of County and District Road Indebtedness, created by Chapter 13, Acts of the Third Called Session of the Forty-second Legislature,¹ consisting of the State Highway Engineer, State Comptroller of Public Accounts, and State Treasurer, is hereby continued and charged with the duties of administering this Act. The State Comptroller of Public Accounts shall be the Secretary of said Board and said Board shall elect its own chairman from its membership. The Board shall adopt its own rules consistent with this Act for the proceedings held hereunder, and shall have authority to call to its assistance in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund, any official or employe of this State, and shall avail itself of all data and information assembled in the administration of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, and said Board is hereby authorized to call on any County Judge or any County or State official or employe, and shall have full access to all the records, books, and public documents for the purpose of obtaining any information which it may deem necessary and pertinent to its inquiry in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund.

(c) It shall be the duty of the Board of County and District Road Indebtedness, from the data and information furnished by the County Judges of the State, and by the Chairman of the State Highway Commission and by the State Comptroller of Public Accounts, and from such

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further investigation as said Board may deem necessary, to ascertain and determine the amount of indebtedness eligible under the provisions of this Section of this Act to participate in the moneys coming into said County and Road District Highway Fund. Whenever in the case of any particular issue of obligations the proceeds thereof have been expended partly on designated State highways, or highways heretofore constituting designated State highways, and partly on roads which never have been designated State highways, said Board shall ascertain and determine the amount of said obligations, the proceeds of which were actually expended on State highways or on roads heretofore constituting State highways, and said obligations to said amount and extent shall be eligible for participation in the moneys coming into the County and Road District Highway Fund, and said ascertainment and determination shall be certified to the County Judge by said Board and all of the unmatured outstanding obligations of said issue shall ratably have the benefit of said participation in said moneys. The ascertainment and determination by the Board of County and District Road Indebtedness, after reasonable notice and hearing of the amount of any county or defined road district obligations eligible under the provisions of this Act to participate in any moneys coming into the County and Road District Highway Fund, or as to the amount of any obligations the proceeds of which were actually expended on State highways, or on roads heretofore constituting State highways, shall be final and conclusive and shall not be subject to review in any other tribunal. But said Board of County and District Road Indebtedness shall have the right at any time to correct any errors or mistakes it may have made.

(d) The Board shall make and keep a record of all county and defined road district eligible obligations, issue by issue, and a book shall be prepared and kept in which shall be recorded all eligible issues, maturity dates of principal and interest, rates of interest and places of payment for each county and each defined road district; each issue and the date pertaining to same shall be listed separately. The Board shall keep a record of all vouchers issued.

(e) The State Treasurer shall keep a separate account for each county and defined road district, or any moneys received for the credit of said county or defined road district pursuant to the provisions hereof.

(f) A list shall be compiled by the Board of County and District Road Indebtedness showing the amount ascertained and determined by it to be the eligible indebtedness of each county and defined road district, and a copy thereof shall be furnished to each County Judge in this State.

(g) From year to year, and not later than July 15th of each year, said Board shall ascertain and determine the sum necessary to pay the interest, principal, and sinking fund requirements on all eligible obligations for the next succeeding calendar year and shall estimate the sum which shall be applicable to the same, and shall, not later than August 1st of each year, give notice to the County Judge of each county of the estimated amount available for application to said interest, principal, and sinking fund requirements. In the event the amount so estimated to be applied to the payment of eligible obligations for any county or defined road district is sufficient to meet all maturing interest, principal, and sinking fund requirements, the Commissioners Court may dispense with the collection of ad valorem levies for such calendar and/or fiscal year for such interest, principal, or sinking fund requirements. In the event the amount of payments so estimated to be applied is not sufficient to meet the maturing interest, principal, and sinking fund requirements, the County Commissioners Court shall collect from taxes on the property in said respective counties and defined road districts, an amount of money

equal to the difference between the amount of such requirements and the amount available for application. In this connection it is declared to be the intent of the Legislature that all contractual duties and obligations which may exist between any county and/or defined road district and the owner or holder of the present outstanding indebtedness of any county and/or defined road district, shall not be in any manner disturbed or impaired and shall remain inviolate. Any tax heretofore provided to be levied in support of any present outstanding indebtedness affected by the provisions of this Act shall continue to be assessed, levied, and collected as originally provided; however, the collection of said tax may, by order of the Commissioners Court, be lessened and reduced by the payments made, and to be made, thereon and in behalf of such indebtedness out of the County and Road District Highway Fund, as herein provided, and as succeeding Legislatures shall, by appropriation, make provisions therefor. The entire proceeds of all taxes collected on any eligible issue of bonds shall be remitted by the County Treasurer of each county collecting the same, together with a statement of the amount collected, to the State Treasurer and shall be held by the State Treasurer as ex-officio Treasurer of said county or defined road district for the benefit of the county or defined road district remitting the same, and be disbursed to meet the interest, principal, and sinking fund requirements on the eligible obligations of said county or defined road district. In the event the amount of funds available to be applied to meet the maturing interest, principal, and sinking fund requirements in any calendar or fiscal year is not sufficient to satisfy such requirements, the moneys available in the County and Road District Highway Fund, as estimated and determined by the Board, shall be, for that calendar or fiscal year first applied to the payment and satisfaction of interest maturing on all eligible obligations during the particular calendar and/or fiscal year, and this payment is to be made ratably upon the interest on eligible obligations of the various counties or defined road districts; and if there is more of said moneys available than necessary to pay all of said interest, then such balance over the required interest payment for such year shall be distributed ratably to each issue of eligible obligations on the basis of the principal of eligible obligations and sinking fund requirements thereon maturing each year.

(h) The County Commissioners Court of any county may exercise the authority now conferred by law to issue refunding obligations for the purpose of refunding any eligible debt of the county or of any defined road district; and such refunding obligations, when validly issued, shall be eligible obligations within the meaning of this Act, if said Board of County and District Road Indebtedness shall approve the maturities of said refunding obligations and the rate of interest borne by them. In any instance where, in the opinion of said Board, the existing maturities of any issue of eligible obligations or any part thereof are such as to give the county or defined road district which issued them an inequitable or disproportionate participation in the moneys coming into the County and Road District Highway Fund in any particular period, said Board, in its discretion, may require said issue or any part thereof to be refunded into refunding obligations bearing such rate of interest and having such maturities as may be satisfactory to the Board. And if said county or defined road district shall fail or refuse to effectuate such refunding within a reasonable time to be fixed by said Board said obligations so required to be refunded, and all other obligations of said county or defined road district, shall cease to be eligible for participation in said County and Road District Highway Fund until the requirements of said Board with respect to refunding the same shall be complied with. Provided that no commission, bonus, or premium shall be paid by any coun-

ty or defined road district for the refunding of such obligations and no County Treasurer shall receive any commission for handling of the funds derived from the refunding of such obligations.

(i) All moneys deposited to the credit of the County and Road District Highway Fund with the State Treasurer up to September 1, 1939, are hereby appropriated to said respective counties and defined road districts and shall be received, held, used, and applied by the State Treasurer as ex-officio Treasurer of said respective counties and defined road districts to the payment of the interest, principal, and sinking fund requirements on all eligible obligations maturing on and from September 1, 1937, to and including August 31, 1939, and each year thereafter until all of such eligible obligations are fully paid and moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer and all moneys remaining therein from the previous year shall be received and held by him as ex-officio Treasurer of said counties and defined road districts and shall be subject to the appropriation for the payment of interest, principal, and sinking funds maturing from time to time, on said eligible obligations. As payment of principal and/or interest becomes due upon such eligible obligations the State Comptroller of Public Accounts shall issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin, Texas, or by remitting to the Bank or Trust Company or other place of payment designated in the particular obligation. Such warrants shall show on their face that the proceeds of the same are to be applied by the paying agent to the payment of certain specified obligations or interest therein described, giving the name of the county or defined road district by which they were issued, numbers, amounts, and dates of maturities of the obligations and interest to be paid with instructions to the State Treasurer, paying agent, bank, or trust company to return to the State Comptroller of Public Accounts such obligations and interest coupons when same are paid, and the State Comptroller of Public Accounts shall, upon receipt of said obligations and coupons, credit same on his records and send them, duly cancelled, to the Commissioners Court of the appropriate county, which shall cause to be duly entered a record of such cancellation.

(j) Expenses necessary to be incurred in the determination of the indebtedness of the counties and defined road districts of the State, and in the discharge of the duties required for the payment of such obligations shall be paid from the County and Road District Highway Fund by warrant approved by the Chief Accountant, the State Comptroller of Public Accounts, and one other member of said Board. The compensation of all employes of said Board shall be fixed by the Legislature. All employes of said Board of County and District Road Indebtedness shall be bonded, the amount of such bond shall be set by the Board.

(k) All of the securities now on hand in which sinking funds collected for the benefit of outstanding eligible issues are invested and all funds and securities hereafter acquired for the benefit of the entire outstanding balance of all eligible bond issues, shall be forwarded within thirty (30) days from the effective date of this Act, and thereafter within thirty (30) days of the acquisition of such fund or securities, to the State Treasurer as ex-officio County Treasurer of the various counties and defined road districts. Provided that the cash now on hand in the sinking fund created for the benefit of outstanding eligible obligations, may also be remitted, as above set forth at the option of such county or defined road district. Any county, the Commissioners Court of which fails or refuses to comply with the provisions of this Act in all things including the levy, assessment, and collection of a tax of and at a rate sufficient to pay

all sums due or to become due, which the State is unable to pay or to provide each year the proportionate amount of sinking fund required to redeem its outstanding bonds at their maturity shall not participate in any of the benefits of this Act so long as such county fails or refuses to comply with all the provisions hereof. The Board of County and District Road Indebtedness shall have and possess full authority to invest all such sinking funds, including all future sinking funds acquired in any manner whatsoever, in any eligible obligations of the various political subdivisions of this State, and where there is on hand a sufficient amount of moneys or securities to the credit of any one political subdivision to retire some of its outstanding obligations, whether then due or not, the Board of County and District Road Indebtedness may, if it deems it advisable, purchase and cancel said obligations of such particular political subdivision. Provided further, that any county which has selected a depository according to law and in which county such depository has qualified by giving surety bonds or by the deposit of adequate securities of the kind provided by law, which in the opinion of the Board of County and District Road Indebtedness is ample to cover the county deposits, and in which county there has been no default by any county depository for a period of three (3) years, and which county has not defaulted in the payment of any installment of principal and/or interest on any county bonds for a period of five (5) years next preceding the date of the filing of its application for exemption, and in which county all sinking funds of all bond issues are in excess of the standard required by law and which county has levied for the current tax year adequate rates in support of outstanding bond issues as required by the Constitution and Statutes of said State, shall be exempted from the provisions of this subdivision of this Act, and which exemption shall be obtained by such county in the manner and under conditions prescribed by the said Board of County and District Road Indebtedness. Said Board of County and District Road Indebtedness shall have the right to inspect the records of such county at any subsequent date to ascertain whether or not the facts warrant the continuation of the exemption. If at any time, in the opinion of the Board of County and District Road Indebtedness, counties that have been granted exemption under the provisions of this Act, shall cease to comply with all the conditions under which the exemption has been granted, the Board shall notify the county to return all securities in which the sinking funds of eligible road bond issues are invested and the residue in said sinking funds, and to begin immediately forwarding taxes levied and collected for the payment of interest and principal on all eligible road bond issues. Said counties whose exemption has been cancelled by said Board, shall be given a period of thirty (30) days in which to comply with the demands of the Board. Provided further, that such county so exempt shall furnish the Board of County and District Road Indebtedness an annual statement of the condition of the sinking funds of the several eligible road bond issues, together with a financial statement of the county depository. The Board of County and District Road Indebtedness shall have the right to withhold the payment of any maturity on any eligible road bond indebtedness where such county has failed or refused to comply with all the provisions of this Act.

(l) The Board of County and District Road Indebtedness shall keep adequate minutes of its proceedings and semi-annually, within thirty (30) days after February 28th and August 31st, of each year, shall make itemized reports to each county with respect to the receipt, disbursement and investment of the funds credited to such county. The Commissioners Court of any county, and/or its accredited representatives, shall have the right to inspect the records of said Board of County and District Road Indebtedness, and of the State Treasurer, at any reasonable time

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for the purpose of making any investigation or audit of the accounts affecting its county.

(m) The Board of County and District Road Indebtedness shall, within ninety (90) days after the close of each calendar year, make a complete accounting for the preceding year, to the Governor of this State, showing in such report its acts, investments, changes in investments, and sinking fund status of each county and each defined road district, and shall file copies of such report with the President of the Senate and with the Speaker of the House of Representatives.

(n) In the event this Act is repealed, or shall be or become inoperative as to any county or defined road district, then it shall be the duty of the Board of County and District Road Indebtedness to ascertain immediately the amount of moneys and securities remaining on hand with it or with the State Treasurer belonging to the several counties or defined road districts affected, and forthwith to return the same to the County Treasurer of the county entitled thereto, accompanied by an itemized statement of the account of the county or defined road district.

(o) All funds on hand belonging to, and hereafter credited to the several counties and defined road districts of the State, shall be considered State funds, and as such shall be deposited at intervals in the depositories provided for by the State laws and all interest earned on such funds and on the securities in which the sinking funds are invested shall belong to said counties or defined road districts, and shall be credited to them by the State Treasurer as earned and collected.

(p) Upon notice from the Board of County and District Road Indebtedness of the amount that such county or defined road district shall be required to pay toward any installment of interest or maturing principal, the County Treasurer of such county shall, not later than twenty (20) days prior to the maturity date of such interest, principal, or sinking fund requirements forward to the State Treasurer the amount fixed by the Board of County and District Road Indebtedness as being necessary to supplement the amounts previously placed to the credit of the road debts of any such county or defined road district by said Board of County and District Road Indebtedness under the provisions of this Act. [Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 7, as amended Acts 1933, 43rd Leg., p. 347, ch. 136, § 1; Acts 1935, 44th Leg., p. 751, ch. 326, § 1; Acts 1937, 45th Leg., H.B. # 463, § 1.]

1 Articles 6674q—1 to 6674q—11.

Amendment of 1937 effective May 20, 1937.

The title of the Act of 1937, cited to the text, refers to this section as having been amended by chapter 117, Acts of First Called Session of the Forty-third Legislature. However, such ch. 117 amended ch. 13 of the Act of 1932, cited to the text, by adding section 7a (art. 6674q—7A) but did not amend this section alone.

Section 2 of the amendatory Act of 1937 reads as follows: "If any section, paragraph, or provision of this Act be declared

unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs, or provisions of this Act, but the same shall remain in full force and effect."

Section 3 reads as follows: "Chapter 117, Acts, First Called Session of the Forty-third Legislature is hereby specifically repealed [art. 6674q—7A] except as to portions of same which are re-enacted by this Act."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6674q—7a. [Repealed by Acts 1937, 45th Leg., H.B. #463, § 3.]

Acts 1937, 45th Leg., H.B. # 463, § 3, repealed "Chapter 117, Acts, First Called Session of the Forty-third Legislature" (set out in this article), except "as to por-

tions of same which are re-enacted by this Act." See article 6674q—7, ante.

Repeal of 1937 effective May 20, 1937.

Art. 6674q—8a. Bonds of navigation districts

All bonds heretofore issued by Navigation Districts of this State, which mature on or after January 1, 1933, and insofar as amounts of

same were issued for and the proceeds thereof actually expended in the construction of bridges across any stream or streams or any other waterways upon any highway that constituted and comprised a part of the system of designated State Highways on September 17, 1932, shall hereafter be included within and eligible under the provisions of Chapter Thirteen of the Acts of the Forty-second Legislature of Texas, passed at its Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session,¹ to the extent that the proceeds of the sale of said bonds shall have been actually expended in the construction of such bridges; and in such cases the outstanding bonds of said Navigation Districts in an amount equal to the amount so expended by such navigation districts shall be redeemed under the same conditions as is provided by said Chapter Thirteen, Acts of the Forty-second Legislature of Texas, Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session, for the redemption of County and Road District Bonds. [Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 8a, as added Acts 1937, 45th Leg., S.B. # 218, § 1.]

¹ Articles 6674q—1 to 6674q—11.

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of Acts 1937 45th Leg. S.B. act effective on and after its passage but #218 declared an emergency making the the vote was not recorded.

Art. 6674q—8b. Preference over other bonds by Board of County and Road District Bond Indebtedness unauthorized

It is expressly provided that the Board of County and Road District Bond Indebtedness shall not be authorized to give the bonds herein referred to preference over other bonds eligible under said Bond Act;¹ and it is further expressly provided that said Board in determining the amount of bonds eligible for assumption shall take into consideration the amount of the bond money expended for the construction of said bridge and the balance due on said amount of bonds used in the construction of said bridge at the effective date of this bill; and in no event shall said Board be authorized to assume in excess of the balance due on the bonds for the said bridge construction at the effective date of this bill. [Acts 1932, 42nd Leg., 3rd C.S., p. 15, ch. 13, § 8b, as added Acts 1937, 45th Leg., S.B. # 218, § 1.]

¹ Articles 6674q—1 to 6674q—11.

Effective 90 days after May 22, 1937, date of adjournment.

Emergency section. See note under art. 6674q—8a, ante.

Art. 6674q—12. State Treasurer as ex officio county treasurer in payment of interest and sinking funds

Resolved by the Senate of Texas, the House of Representatives concurring, that it was the intention of the Legislature of the State of Texas in enacting said above named Acts to authorize and empower the Treasurer of the State of Texas to act as ex officio treasurer of such respective county and road districts in the payment of the interest and sinking funds due by the several counties of the State upon such county road bonds which are not eligible to participate in the County and Road District Highway Fund, and to receive from the respective counties the sums of money due by such respective counties for the payment of such interest and sinking funds, and to pay same upon warrants issued by the Comptroller of the State of Texas in the same manner as is provided for the payment of the interest and sinking funds upon the county road bonds which are eligible to participate in the County and Road District Highway Fund in the Acts aforesaid. Nothing herein shall be construed as increasing the liability of the State of Texas for the payment of any in-

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terest or sinking funds on any county road bonds not heretofore eligible under the provisions of the Acts aforesaid; the State Treasurer, merely for convenience of such counties, to act as ex officio treasurer in the receiving and payment of the interest and sinking funds on said county road bonds which are not eligible to participate in the County and Road District Highway Fund. [Acts 1936, 44th Leg., 3rd C.S., p. 2115, S.C.R. #4.]

Approved by Governor, Oct. 22, 1936.

Art. 6674q—13. Expenditure of Federal funds on roads not part of state highway system

From and after July 1, 1937, all moneys appropriated under the Hayden-Cartwright Act, passed by the 74th Congress, June 16, 1936, (H.R. 11687),¹ for expenditure on roads not on the System of the State Highways, may be expended, by and through the State Highway Department in conjunction with the Bureau of Public Roads, for the improvement of such roads and said Federal funds may be matched or supplemented by such amounts of State funds as may be necessary for proper construction and prosecution of the work. State funds shall not be used exclusively for the construction of roads not on the System of State Highways; the expenditure of State funds on said roads being limited to cost of construction and engineering, overhead and other costs, on which the application of Federal funds is prohibited or impractical. [Acts 1937, 45th Leg., H.B. # 611, § 1.]

¹ Act of June 16, 1936, c. 582, 49 Stat. 1519.

Effective April 26, 1937.

Section 2 repeals all conflicting laws and parts of laws and section 3 declares an emergency making the act effective on and after its passage.

Title of Act:

An Act to authorize the State Highway Department, in conjunction with the Bureau of Public Roads, to expend, from and after July 1, 1937, upon roads not a part of the system of State Highways, funds appropriated for expenditure on such

roads under the Hayden-Cartwright Act, passed by the 74th Congress, June 16, 1936, (H.R. 11687); to permit such funds to be matched or supplemented from the State Highway Fund; expressly repealing all laws or parts of laws in conflict herewith to the extent of such conflict, but said laws are not otherwise repealed, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #611.]

Art. 6674q—14. Bonds of counties of 19,000 to 19,500 population to participate in State Highway Funds

That all bonds which have been heretofore issued and sold by road districts in counties with a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the next preceding Federal Census, where the proceeds of the sale of the bonds have been expended in whole or in part upon a highway which was then a part of the designated system of State Highways in Texas, and a part of the proceeds of which has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been designated as a part of the State Highway System of Texas, and where such designated parts of the State Highway System bear different highway numbers, or where one designation is numbered and the other un-numbered, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto,¹ including the re-enactment and extension thereof under and by virtue of the terms and provisions of House Bill

No. 463, enacted by the Legislature of Texas, Forty-fifth Regular Session, 1937.

The Board of County and Road District Indebtedness is directed to audit all expenditures of the aforementioned district, and the assumption herein provided for shall extend only to such bonds, the proceeds of which were expended in the construction of the road which has subsequently been designated a State Highway. [Acts 1937, 45th Leg., S. B. # 195, § 1.]

1 Articles 6674q—7, 6674q—8.

Effective 90 days after May 22, 1937, date of adjournment

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its enactment.

Title of Act:

An Act providing that all bonds which have been heretofore issued and sold by road districts, prior to September 17, 1932, in counties having a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the 1930 Federal Census, the proceeds of the sale of which bonds have been expended in whole or in part upon a highway which has, since the

issuance and sale of said bonds, been designated as a part of the State Highway System, and where the proceeds of the sale of said bonds have been expended, in whole or in part, upon a highway heretofore designated as a part of the State Highway System where not more than twelve (12) miles of such highway lies within the road district issuing said bonds, shall be entitled to participate in the State Highway Funds, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and amendments thereto, as well as re-enactments thereof, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #195.]

Art. 6674r. Bonds of certain counties and road districts entitled to participate in State Highway Fund under certain conditions

That all bonds which have been heretofore issued and sold by all road districts in counties with a population of not less than twenty-five thousand three hundred forty-four (25,344) and not more than twenty-five thousand four hundred forty-four (25,444) people, according to the last preceding Federal Census, where the proceeds of the sale of the bonds has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been temporarily or permanently designated as a part of the State Highway System, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto.¹ [Acts 1937, 45th Leg., S.B. # 494, § 1.]

1 Articles 6674q—7, 6674q—8.

Effective May 28, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that all bonds which have been heretofore issued and sold by all road districts in counties with a population of not less than twenty-five thousand three hundred forty-four (25,344) and not more than twenty-five thousand four hundred forty-four (25,444) people, accord-

ing to the last preceding Federal Census, where the proceeds of the sale of bonds has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been temporarily or permanently designated as a part of the State Highway System, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #494.]

Art. 6674s. Workmen's Compensation Insurance for Highway Department Employees

Section 1. By virtue of the provisions of Section 59 of Article III of the Constitution of the State of Texas granting the Legislature power to pass such laws as may be necessary to provide for Workmen's Compensation Insurance for State employees, as in its judgment is necessary or required, and to provide for the payment of all costs, charges, and premiums on such insurance, provision is made as hereinafter set forth.

Definitions

Sec. 2. The following words and phrases as used in this law shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. "Department" whenever used in this law shall be held to mean the State Highway Department of Texas.

2. "Employee" shall mean every person in the service of the State Highway Department under any appointment or expressed contract of hire, oral or written, whose name appears upon the pay roll of the State Highway Department, except officials appointed by the Governor with the advice and consent of the Senate, except clerical and office employees not required by their duties to travel or work away from their office, and except all positions for which itemized appropriations are made by the Legislature. No person in the service of the State Highway Department who is paid on a piecework basis, or on any basis other than by the hour, day, week, month, or year, shall be considered an employee and entitled to compensation under the terms and provisions of this Act. Provided further, that no person shall be classified as an "employee" nor be eligible to any compensation benefits under the terms and provisions of this Act until he shall have submitted himself first to a physical examination by a regularly licensed physician or surgeon designated by the State Highway Department to make such examination and thereafter been certified by the State Highway Department to be placed on the pay roll of the State Highway Department.

3. "Insurance" shall mean Workmen's Compensation Insurance.

4. "Board" shall mean the Industrial Accident Board of the State of Texas.

5. "Legal beneficiaries" shall mean the relative named in Section 8a of Article 8306, Revised Civil Statutes of Texas of 1925, adopted in Section 7 of this law.

6. "Average weekly wages" shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.

7. The terms "injury" or "Personal injury" and "injuries sustained in the course of employment" shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.

8. Any reference to an employee herein who has been injured shall, when the employee is dead, also include the legal beneficiaries, as that term is herein used, of such employee to whom compensation may be payable. Whenever in this law the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

General provisions

Sec. 3. After the effective date of this law any employee, as defined in this law, who sustains an injury in the course of his employment shall be paid compensation as hereinafter provided.

The Department is hereby authorized to be self-insuring and is charged with the administration of this law. The Department shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the employees of the Department, the approximate number of employees, and the estimated amount of pay roll.

The Department shall give notice to all employees that, effective at the time stated in such notice, the Department has provided for payment of insurance.

Employees of the Department shall be conclusively deemed to have accepted the provisions hereof in lieu of common law or statutory causes of action, if any, for injuries resulting in the course of their employment.

Injury in course of employment

Sec. 4. If an employee of the Department sustains an injury in the course of his employment, he shall be paid compensation by the Department, as hereinafter provided.

Willful intention and intoxication of employee as defenses

Sec. 5. If an action to recover damages for personal injuries sustained by an employee in the course of his employment, or for death resulting from personal injuries so sustained, the Department may defend in such action on the ground that the injury was caused by the willful intention of the employee to bring about the injury, or was so caused while the employee was in a state of intoxication.

No right of action against agents or employees of Highway Department; compensation exempt from garnishment or attachment; assignments void

Sec. 6. Employees of the Department and parents of minor employees shall have no right of action against the agents, servants, or employees of the Department for damages for personal injuries nor shall representatives and beneficiaries of deceased employees have a right of action against the agents, servants, or employees of the Department for injuries resulting in death, but such employees and their representatives and beneficiaries shall look for compensation solely to the Department as is provided in this law. All compensation allowed herein shall be exempt from garnishment, attachment, judgment, and all other suits or claims, and no such right of action and no such compensation and no part thereof nor of either shall be assignable, except as otherwise herein provided, and any attempt to assign the same shall be void.

Workmen's Compensation Act and other acts, application of

Sec. 7. Unless otherwise provided herein Sections 6 as amended by Acts 1927, Fortieth Legislature, Page 84, Chapter 60, Section 1;¹ 7; 7b; 7c; 8; 8a; 8b; 9 as amended by Acts 1931, Forty-second Legislature, Page 303, Chapter 178;² 10; 11; 11a, Acts 1927, Fortieth Legislature, Page 41, Chapter 28, Section 1;³ 12; 12a; 12b; 12c; 12d as amended by Acts 1931, Forty-second Legislature, Page 260, Chapter 155, Section 1;⁴ 12e; 12f; 12i as amended by Acts of 1931, Forty-second Legislature, Page 259, Chapter 154, Section 1;⁵ 13; 14; 15; 15a; 16; 17; 19 as amended by Acts 1927, Fortieth Legislature, Page 383, Chapter 259, Section 1, as amended by Acts 1931, Forty-second Legislature, Page 133, Chapter 90, Section 1;⁶ Acts 1931, Forty-second Legislature, Page 415, Chapter 248, Section 1,⁷ all being Sections of Article 8306 of the Revised Civil Statutes of Texas, 1925; Sections 4a; 6a; 11; and 12 of Article 8307, of the Revised Civil Statutes of Texas, 1925; and Sections 4 and 5 of Article 8309 of the Revised Civil Statutes of Texas, 1925, and Senate Bill 64, Acts Regular Session, Forty-fifth Legislature, are hereby adopted and shall govern in so far as applicable under the provisions of this law.⁸ Provided that whenever in the above adopted Sections of Articles 8306, 8307, and 8309 of the Revised Civil Statutes of Texas, 1925, the words "association," "sub-

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scriber," or "employer," or their equivalents appear in such Articles, they shall be construed to and shall mean "the Department."

1 Article 8306(6).

2 Article 8306, § 9.

3 Article 8306, § (11a).

4 Article 8306, § 12a.

5 Article 8306, § 12i.

6 Article 8306, § 19.

7 Article 8306a.

8 Article 8306, § 7d.

Attorney's fees

Sec. 8. For representing the interest of any claimant in any manner carried from the Board into the Courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this law for an attorney's fee for such representation, such fee to be determined as herein provided and, when the amount recovered exceeds the amount of the award appealed from, to include not more than one-third of the amount by which the judgment exceeds the award, such fee for services so rendered to be determined and allowed by the trial Court in which such cause may be heard and determined.

Weekly payments of compensation

Sec. 9. It is the purpose of this law that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein.

Physical examination; effect of refusal to submit to; insanitary and injurious practices; procedure

Sec. 10. The Board may require any employee claiming to have sustained injury to submit himself for examination before such Board or some one acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians authorized to practice under the laws of this State. If the employee or the Department requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the Board may in its discretion order or direct the Department to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the employee and an opportunity to be heard.

The Department shall have the privilege of having any injured employee examined by a physician or physicians of its own selection; at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The Department shall pay for such examination and the reasonable expense incident to the injured employee in submitting thereto. The injured employee shall have the privilege to have a physician of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the Department, the Department shall pay the fee of the physician selected by the employee, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this law. The Board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this law.

Industrial Accident Board, authority of; procedure

Sec. 11. All questions arising under this law, if not settled by agreement of the parties interested therein and within the provisions of this law, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this law and the suit of the injured employee or person suing on account of the death of such employee shall be against the Department. If the final order of the Board is against the Department, then the Department shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the Court shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Board shall furnish any interested party in said claim pending in Court upon request free of charge, with a certified copy of the notice of the Department becoming an insurer filed with the Board and the same when properly certified to shall be admissible in evidence in any Court in this State upon trial of such claim therein pending and shall be prima facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party therein. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this law. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the Department, it shall at once comply with such final ruling and decision.

In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding Section and against the Department, and the Department shall fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may bring suit in a Court of competent jurisdiction, upon said order, ruling, or decision. If he secures a judgment sustaining such order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of twelve (12) per cent as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney's fee for the prosecution and collection of such claim.

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Where the Board has made an award against the Department requiring the payment to an injured employee or his beneficiaries of any weekly or monthly payments, under the terms of this law, and the Department should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured employee or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve (12) per cent penalties and attorney's fees as herein provided for. Suit may be brought under provisions of this Section, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Employees of subcontractors

Sec. 12. If the Department sublets the whole or any part of the work to be performed or done to any subcontractor, then in the event any employee of such subcontractor, whose name does not appear on the pay roll of the Department, sustains an injury in the course of his employment, he shall be deemed and taken for all purposes of this law not to be an employee as defined in this law.

Records and reports of injuries

Sec. 13. The Department shall hereafter keep a record of all injuries fatal or otherwise, sustained by its employees in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured employee, or if such incapacity extends beyond a period of sixty (60) days, the Department shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name, age, sex, and occupation of the injured employee and the character of work in which he was engaged at the time of the injury, and shall state the place, date, and hour of receiving such injury and the nature and cause of the injury, and such other information as the Board may require. The Department shall be responsible for the submission of the reports in the time specified in this Section.

Rules and regulations; examining physicians; reports as evidence

Sec. 14. The State Highway Department is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of this law, and the State Highway Department shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. It shall be the duty of the State Highway Department to designate a convenient number of regularly licensed practicing physicians and surgeons for the purpose of making physical examinations of all persons employed or to be employed in the service of the State Highway Department to determine who may be physically fit to be classified as "employee" as that term is defined in Subsection 2 of Section 2 of this Act, and said physicians and surgeons so designated and so conducting such examinations shall make and file with the State Highway Department a complete transcript of said examination in writing and sworn to upon a form to be furnished by the State Highway Department. It shall be the duty of the State Highway De-

partment to preserve as a part of the permanent records of the State Highway Department all reports of such examinations so filed with him. Such reports shall be admissible in evidence before the Industrial Accident Board, and in any court of competent jurisdiction to which an appeal has been made from a final award or ruling of the Industrial Accident Board in which the person named in said examination is a claimant for compensation benefits under the terms and provisions of this Act, and such reports so admitted shall be prima facie as to the facts set out therein.

Physical examination prerequisite to certification as employee

Sec. 14a. No person shall be certified as an employee of the State Highway Department under the terms and provisions of this Act until he has submitted himself for a physical examination as provided in Section 14 herein and has been certified by the examining physician or surgeon to be physically fit to perform the duties and services to which he is to be assigned, provided that absence of a physical examination shall not be a bar to recovery.

Award as evidence; certified copies of orders, awards, decisions, or documents

Sec. 15. Any order, award, or proceeding of said Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the act of said Board in any Court of this State.

Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of said Board and the fees so received for such copies shall be paid into the State Treasury and credited to the General Revenue Fund; provided that the Department shall be furnished such certified copies without charge. No fee or salary shall be paid to any person in said Board for making such copies in excess of the fees charged for such copies.

Suit to set aside decision of Board; notice

Sec. 16. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 11 of this law, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the Court in which same is filed shall, upon ascertaining that it does not have jurisdiction to render judgment upon the merit, transfer the case to the proper Court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the Court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said Court.

Time of hearing

Sec. 17. When an injured employee has sustained an injury in the course of employment and filed claim for compensation and given notice as required by law, the Board shall hear his claim for compensation within a reasonable time. Provided, however, when such injured employee is being paid compensation as provided in this law, and the Department is furnishing either hospitalization or medical treatment to such employee, the Board may, within its discretion, delay or post-

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pone the hearing of his claim, and no appeal shall be taken from any such order made by the Board.

Percentage of payroll set aside in account for payments under act

Sec. 18. The Department is hereby authorized to set aside from available appropriations other than itemized appropriations an amount not to exceed three and one-half (3½) per cent of the annual labor pay roll of the Department for the payment of all costs, administrative expense, charges, benefits, and awards authorized by this law.

The amounts so set aside shall be set up in a separate account in the records of the Department, which account shall show the disbursements authorized by this law; provided the amounts so set aside in this account shall not exceed three and one-half (3½) per cent of the annual labor pay roll at any one time. A statement of the amounts set aside for and disbursements from said account shall be included in reports made to the Governor and the Legislature as required by the Statutes.

Penal provisions

Section 19 is penal provision published as Vernon's Rev. Penal Code art. 427c—1.

Partial invalidity

Sec. 20. If any section, paragraph, or provision of this law be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs, or provisions of this law, but the same shall remain in full force and effect. [Acts 1937, 45th Leg., H.B. # 420.]

Effective June 11, 1937.

Section 21 of the act of 1937 repeals all conflicting laws and parts of laws. Section 22 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing workmen's compensation insurance for employees of the State Highway Department of Texas; defining certain terms; authorizing the State Highway Department to be self-insuring; providing that the State Highway Department shall administer this Act; prescribing the powers and duties of the Industrial Accident Board and of the State Highway Department; adopting by reference certain Legislative Acts relating to workmen's compensation insurance; providing the Industrial Accident Board and the State Highway Department may require the examination of applicants for compensation; providing for time of filing notice of injury

and of claim for compensation; providing for appeals from rulings of the Industrial Accident Board; providing that the State Highway Department shall keep permanent records and make reports to the Industrial Accident Board of injuries sustained by employees; providing for physical examination of employees and persons to be employed; providing funds for the payment of all costs, administrative expense, charges, benefits, and awards authorized by this law; providing for reports to the Governor and to the Legislature; prescribing duties of clerks of courts in compensation cases under this law; prescribing penalty for failure to perform such duties; declaring the provisions of this Act to be severable; suspending all laws or parts of laws in conflict herewith to the extent of such conflict; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #420.]

2. REGULATION OF VEHICLES

Art. 6675a—3b. [Repealed by Acts 1937, 45th Leg., H.B. 781, § 1.]

Prior to its repeal this article was added by Acts 1931, 42nd Leg., p. 215, ch. 127, § 1.

Effective June 9, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6686. Dealer's license; notice of sale or transfer

(a) Any manufacturer of or dealer in motor vehicles in this State may, instead of registering each vehicle he may wish to show or demonstrate on the public highways, apply for registration and secure a general distinguishing number which may be attached to any motor vehicle or motorcycle which he sends temporarily upon the road. The annual fee for such dealer's registration of a general distinguishing number shall be Fifteen (\$15.00) Dollars, and additional number plates bearing said number desired by any dealer shall be assigned and registered for a fee of Five (\$5.00) Dollars each. A dealer within the meaning of this Article means any person, firm or corporation engaged in the business of selling automobiles who runs them upon the public highways or streets for demonstration for the purpose of sale; and this Act shall not be construed as permitting the use of a dealer's license or number plate on any vehicle owned or used by such a dealer for any other purpose than demonstration for the purpose of sale. Every dealer in making application for a dealer's license shall apply for same in writing on a form prescribed and provided by the State Highway Commission. The application shall state that the applicant is a dealer within the meaning of this Act, and if he holds a contract with an automobile manufacturer or distributor for the distribution or sale of motor vehicles or motorcycles he shall so state in the application, giving make of vehicle he handles and name of such manufacturer or distributor. The facts stated in such application shall be sworn to before an officer authorized to administer oaths. No dealer's license or number plates shall be issued until this Article is complied with.

(b) Each dealer holding a dealer's license may issue temporary cardboard numbers using such dealer's number thereon which may be used by any person, dealer, or manufacturer purchasing a motor vehicle, trailer, or semi-trailer. Such person purchasing a motor vehicle, trailer, or semi-trailer from a manufacturer or dealer may use such cardboard number for a reasonable length of time but in no case to exceed ten (10) days after such purchase is made. Any dealer or manufacturer may use such cardboard license plate for the purpose of operating or conveying a motor vehicle, trailer, or semi-trailer from his place of business in one part of the State to his place of business in another part of the State, and for the purpose of operating or conveying a motor vehicle, trailer, or semi-trailer from the point where it is unloaded to his place of business, and may also use such cardboard number in transporting a motor vehicle, trailer, or semi-trailer from the State line to his place of business. The form of such cardboard number shall be prescribed by the Department of Public Safety.

(c) Every motor vehicle that has been driven under its own power, or towed by another vehicle from the point where manufactured outside this State for the purpose of sale within this State, shall have affixed to the windshield or front thereof in plain view a sticker not less than three inches in diameter stating that such vehicle has been driven or towed from point where manufactured. Such notice shall remain on such vehicle until the sale thereof by the dealer.

(d) Manufacturer to give notice of sale or transfer. Every manufacturer or dealer, upon transferring a motor vehicle, trailer, or semi-trailer, whether by sale, lease or otherwise, to any person other than a manufacturer or dealer, shall immediately give written notice of such transfer to the Registration Division of the State Highway Department upon the official form provided by the State Highway Department. Every such notice shall contain the date of such transfer, names and ad-

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dresses of the transferrer and transferee and such description of the vehicle as may be called for in such official form.

(e) All registration fees shall be paid in the county in which the owner lives at the time of registration of said motor vehicle.

(f) Any person found guilty of violating any of the provisions of this Act shall, upon conviction, be fined not less than Fifty (\$50.00) Dollars and not more than One Hundred Fifty (\$150.00) Dollars, and all costs of court. [As amended Acts 1927, 40th Leg., p. 296, ch. 211, § 1; Acts 1937, 45th Leg., S.B. # 301, § 1.]

Amendment of 1937, effective April 15, 1937, declared an emergency making the act effective on and after its passage.

Section 2 of the amendatory Act of 1937,

[Art. 6687a. Driver's licenses]

Section 1. **Definitions:** The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this Section except in those instances where the context indicates a different meaning:

(a) "Vehicle": Every self-propelled device upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively on stationary rails or tracks.

(b) "Motor Vehicle": Every vehicle as herein defined, which is self-propelled.

(c) "Farm Tractor": Every motor vehicle designed and used primarily as a farm implement for drawing plows, sowing machines and other implements of husbandry.

(d) "Implements of Husbandry": The words "implements of husbandry" shall mean farm implements, machinery and tools as used in tilling the soil, namely: cultivators, farm tractors, reapers, binders, tractors, combines, or mowing machinery, but shall not include any automobile or truck.

(e) "Person": Every natural person, firm, copartnership, association, corporation, or person, jointly and severally, who are members of any firm, copartnership, association or corporation, or persons.

(f) "Operator": Every person, other than a chauffeur who is in actual physical control of a motor vehicle upon a highway.

(g) Chauffeur. Any person who operates a motor vehicle for any purpose, whole or part time, as an employee, servant, agent, or independent contractor, whether paid in salary or commission; and every person who operates a motor vehicle while such vehicle is in use for hire or lease. [As amended Acts 1937, 45th Leg., H.B. # 16, § 1-A.]

Effective May 20, 1937.

(h) "Non-resident": Every person who is not a resident of this State.

(i) "Highway": Any road, street, way, thoroughfare or bridge in this State, not privately owned or controlled, for the use of vehicles over which the State has legislative jurisdiction under its police power.

(j) "Department": The Department of Public Safety of the State of Texas acting directly or through its duly authorized officers or agents.

(k) School Bus. Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school. [As added Acts 1937, 45th Leg., H.B. # 16, § 1-B.]

Effective May 20, 1937.

Section 9 of the amendatory Act of 1937, laws. Sec. 10 provides that if any part repeals all conflicting laws and parts of or parts of this Act shall be held to

be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. Section 11 declared an emergency and provided that the act should take effect from and after its passage.

Sec. 6—A. Examination of Applicants.

(a) The Department shall examine every applicant for an operator's or chauffeur's license except as otherwise provided in this Act. Such examination shall be held in the county where applicant resides or makes application. It shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of the traffic rules of this State, and shall further include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. No fee shall be charged for examination of any applicant for any driver's license. Duly designated agents of the Department are hereby authorized and empowered to administer oaths in connection with applications, examinations, and issuance of licenses.

(b) The Department or its designated agents shall issue without examination and without charge an operator's license to any person applying therefor who has previously held a valid operator's license issued by the Department, and who is qualified under the provisions of this Act to receive a license, and to any person applying therefor within three (3) months after this section takes effect who furnishes evidence satisfactory to the Department that he is qualified under the provisions of this Act, and that he has previously operated a motor vehicle in a satisfactory manner for a period of not less than one (1) year. [As added Acts 1937, 45th Leg., H.B. # 16, § 1.]

Effective May 20, 1937.

Sec. 7. Examinations for chauffeurs and operators—Designation of Local Officers. The Department is hereby vested with authority to conduct and hold examination of applicants for operators' and chauffeurs' licenses, and to issue such licenses under the provisions of this law; and such examination to be held and conducted under such reasonable rules and regulations as may be prescribed by the Department. The Department may, when deemed to be necessary, designate the Assessor and Collector of Taxes of any county as an agent of the Department with authority to issue any and all renewals of licenses under the supervision and regulation of the Department. When licenses are issued by such designated agent of the Department, such agent shall be allowed a fee of five cents (5¢) for each operator's or chauffeur's license renewal so issued by him which fee shall be an accountable fee of office and which fee shall be paid monthly by the Department upon receipt of statements from such officers. [As amended Acts 1937, 45th Leg., H.B. # 16, § 2.]

Effective May 20, 1937.

Sec. 8. Register of Operators and Chauffeurs:

(a) The Department shall issue to every person licensed as an operator, an operator's license, and to every person licensed as a chauffeur, a chauffeur's license. Every chauffeur shall apply for and receive from the Department, and at all times while operating a motor vehicle for hire shall display in plain sight upon the band of his cap or on the lapel of his outer coat, a chauffeur's badge. All persons licensed as chauffeurs shall be issued by the Department an operator's license at no additional cost other than fee now provided by law for chauffeur's license.

(b) Every such license shall bear thereon a distinguishing number assigned to the license and shall contain the name, age, residence address

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and a brief description of the licensee for the purpose of identification, and also a space for the signature of the licensee.

(c) Every chauffeur's badge shall be of metal with a plainly readable distinguishing number assigned to the licensee stamped thereon. [As amended Acts 1937, 45th Leg., H.B. # 16, § 8.]

Effective May 20, 1937.

Sec. 8-A. Restricted Licenses.

(a) The Department upon issuing an operator's or chauffeur's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the Department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The Department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(c) The Department may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same, but the licensee shall be entitled to a hearing as upon a suspension or revocation under this Act.

(d) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him. [As added Acts 1937, 45th Leg., H.B. # 16, § 3.]

Effective May 20, 1937.

Sec. 8-B. Notice of Change of Address or Name. Whenever any person after applying for or receiving an operator's or chauffeur's license shall move from the address named in such application or in the license issued to him or when the name of a licensee is changed by marriage or otherwise such person shall within ten (10) days thereafter notify the Department in writing of his old and new addresses or of such former and new names and of the number of any license then held by him. [As added Acts 1937, 45th Leg., H.B. # 16, § 3.]

Effective May 20, 1937.

Sec. 8-C. Records to be Kept by the Department.

(a) The Department shall file every application for a license received by it and shall maintain suitable indices, containing, in alphabetical order:

1. All applications denied and on each thereof note the reasons for such denial;
2. All licenses issued; and
3. The name of every licensee whose license has been suspended or revoked by the Department and after each such name note the reasons for such action.

(b) The Department shall also file all accident reports and abstracts of Court records of convictions received by it under the laws of this State, and in connection therewith maintain convenient records or make suitable notations, in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the Department, upon any application for renewal of license and at other suitable times. [As added Acts 1937, 45th Leg., H.B. # 16, § 3.]

Effective May 20, 1937.

Sec. 9-A. Authority of Department to Cancel License.

(a) The Department is hereby authorized to cancel any operator's or chauffeur's license upon determining that the licensee was not entitled to the issuance thereof hereunder, or that said licensee failed to give the required or correct information in his application or committed any fraud in making such application.

(b) Upon such cancellation, the licensee must surrender the license so cancelled and any chauffeur's badge to the Department. [As added Acts 1937, 45th Leg., H.B. # 16, § 4.]

Effective May 20, 1937.

Sec. 9-B. Suspending Privileges of Non-residents and Reporting Convictions.

(a) The privilege of driving a motor vehicle on the highways of this State given to a non-resident hereunder shall be subject to suspension or revocation by the Department in like manner and for like cause as an operator's or chauffeur's license issued hereunder may be suspended or revoked.

(b) The Department is further authorized, upon receiving a record of the conviction in this State of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this State, to forward a certified copy of such record to the motor vehicle administrator in the State wherein the person so convicted is a resident. [As added Acts 1937, 45th Leg., H.B. # 16, § 4.]

Effective May 20, 1937.

Sec. 9-C. Suspending Resident's License Upon Conviction in Another State. The Department is authorized to suspend or revoke the license of any resident of this State upon receiving notice of the conviction of such person in another State of an offense therein which, if committed in this State, would be grounds for suspension or revocation of the license of an operator or chauffeur. [As added Acts 1937, 45th Leg., H.B. # 16, § 4.]

Effective May 20, 1937.

Sec. 11. Expiration of Licenses, Fees therefor, and Disposition of Same:

(a) Every operator's license shall expire within three years from date of issuance, and shall be renewed on or before April 1, 1939, and each three years thereafter, upon presentation of valid license previously issued under this Act.

(b) Every chauffeur's license issued hereunder shall expire one year from date of issuance, and shall be renewed annually upon application and payment of the fees required by law, and upon presentation of a valid chauffeur's license previously issued under this Act.

(c) The Department shall provide and furnish suitable forms and blanks for application, registration and license cards or blanks, and all other forms requisite for the purposes of this Act, and shall prepay all transportation charges on same to its designated agencies.

(d) No fee shall be charged or collected for the original issuance of an operator's license. The annual fee for a chauffeur's license shall be Three (\$3.00) Dollars.

(e) All fees and charges required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week with duplicate and triplicate copies of each license issued, to the Department at Austin, Texas, and all such fees so collected shall be deposited in the State Treasury in a fund to

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be known as the "Operators' and Chauffeurs' License Fund," which fund shall be kept separate by the State Treasurer. All moneys in the Operators' and Chauffeurs' License Fund or as much thereof as may be necessary is hereby appropriated for the purpose of defraying the expenses of administering this Act through the biennium ending August 31, 1939, including the employment of necessary clerical and administrative help, and defraying the necessary expenses incident to any judicial hearing relative to the suspension and/or revocation of licenses, and including printing and transportation of all necessary forms, licenses, and badges hereinbefore provided, and including the payment of five cents (5¢) fee required under Section 7 hereof, and including the purchase through bids taken by the Board of Control of all necessary furniture and fixtures. All examination fees required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week with duplicate and triplicate copies of each application for examination, to the Department in Austin, Texas, and all such fees so collected shall be deposited in the aforesaid Operators' and Chauffeurs' License Fund, and all moneys paid in as examination fees or charges or as much thereof as may be necessary, is hereby appropriated for the purpose of defraying the expenses of administering examinations under this Act, through the biennium ending August 31, 1939, including the employment of necessary administrative and clerical help and defraying the necessary expenses incident to the giving of examinations, and including the printing and transportation of all necessary forms for applications and examinations. Providing further that no salaries shall be paid out of the fund hereby appropriated in excess of the salaries paid for like or similar services under the terms of the general Departmental bill and providing further that all disbursements hereunder shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Department of Public Safety Commission, and approved by one other member of the Commission, and such vouchers shall be accompanied by itemized sworn statements of the expenditures for which they are issued. [As amended Acts 1937, 45th Leg., H.B. # 16, § 4-A.]

Effective May 20, 1937.

Sec. 15. When Court to Report Convictions.

(a) Whenever any person is convicted of any offense for which this Act makes mandatory the revocation of the operator's or chauffeur's license of such person by the Department, the Court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses then held by the person so convicted and the court shall thereupon forward the same together with a record of such conviction to the Department, within ten (10) days from date of conviction.

(b) Every court having jurisdiction over offenses committed under this Act, or any other Acts of this State regulating the operation of motor vehicles on highways, shall forward to the Department a record of the conviction of any person in said court for a violation of any said laws, and may recommend the suspension of the operator's and chauffeur's license of the person so convicted.

(c) For the purpose of this Act the term, "conviction," shall mean a final conviction. Also, for the purpose of this Act, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. [As amended Acts 1937, 45th Leg., H.B. # 16, § 5.]

Effective May 20, 1937.

Sec. 16-A. Authority of Department to Suspend or Revoke License.

(a) Before suspending the license of any person as in this Section authorized, the Department shall provide for a hearing and immediately notify the licensee in writing and shall afford him an opportunity to attend the hearing as early as practical, such hearing to be set within not to exceed twenty (20) days, which shall be in a court of competent jurisdiction, after receipt of such notices by the licensee. Such hearing shall be held in the county wherein the licensee resides unless the Department and the licensee agree that such hearing may be held in some other county. Upon such hearing the Department's duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the Department shall either rescind its order of suspension or, good cause appearing therefor, may extend the suspension of such license or revoke such license.

(b) Upon such hearing the evidence having been heard and the records having been examined, the Department is authorized to suspend or revoke the license of an operator or chauffeur upon determining that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;
2. Has been responsible as a driver for any accident resulting in the death or personal injury of another or serious property damage;
3. Is an habitually reckless or negligent driver of a motor vehicle;
4. Is an habitual violator of the traffic law;
5. Is incompetent to drive a motor vehicle;
6. Has permitted an unlawful or fraudulent use of such license; or
7. Has committed an offense in another State, which if committed in this State would be grounds for suspension or revocation. [As added Acts 1937, 45th Leg., H.B. # 16, § 6.]

Effective May 20, 1937.

✓ **Sec. 16-B. Period of Suspension or Revocation.** The Department shall not suspend a license for a period of more than one (1) year, and upon revoking a license shall not in any event grant application for a new license until the expiration of the period for which said license was cancelled. [As added Acts 1937, 45th Leg., H.B. # 16, § 6.]

Effective May 20, 1937.

Sec. 16-C. Surrender and Return of License and Badge. The Department, upon suspending or revoking a license, shall require that such license and the badge of any chauffeur whose license is suspended or revoked shall be surrendered to and be retained by the Department except that at the end of the period of suspension of such license and any chauffeur's badge so surrendered shall be returned to the licensee. [As added Acts 1937, 45th Leg., H.B. # 16, § 6.]

Effective May 20, 1937.

Sec. 16-D. No Operation Under Foreign License During Suspension or Revocation in This State. Any resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this Act shall not operate a motor vehicle in this State under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this Act. [As added Acts 1937, 45th Leg., H.B. # 16, § 6.]

Effective May 20, 1937.

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Sec. 17. Right of Appeal to Courts. Any person denied a license or whose license has been cancelled, suspended, or revoked by the Department except where such cancellation or revocation is mandatory under the provisions of this Act shall have the right to file a petition within thirty (30) days thereafter for a hearing in the matter in the County Court at Law in the county wherein such person shall reside, or if there be no County Court at Law therein, then in the County Court of said county, and such Court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon ten (10) days written notice to the Department, and thereupon to take testimony and examine into the facts of the case, and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation, or revocation of license under the provisions of this Act. Said injured party shall have the right to have his case heard in the County Court, either in term time or vacation of said Court. [As amended Acts 1937, 45th Leg., H.B. # 16, § 7.]

Effective May 20, 1937.

Sec. 19-A. Driving While License Suspended or Revoked. No person whose operator's or chauffeur's license, or driving privilege as a non-resident has been cancelled, suspended, or revoked as provided in this Act shall drive any motor vehicle upon the highways of this State while such license or privilege is cancelled, suspended, or revoked. [As added Acts 1937, 45th Leg., H.B. # 16, § 8.]

Effective May 20, 1937.

Sec. 19-B. Permitting Unauthorized Minor to Drive. No person shall cause or knowingly permit his child or ward under the age of sixteen (16) years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this Act. [As added Acts 1937, 45th Leg., H.B. # 16, § 8.]

Effective May 20, 1937.

Sec. 19-C. Permitting Unauthorized Persons to Drive. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this Act. [As added Acts 1937, 45th Leg., H.B. # 16, § 8.]

Effective May 20, 1937.

Sec. 19-D. Employing Unlicensed Chauffeur. No person shall employ as a chauffeur of a motor vehicle any person not then licensed as provided in this Act. [As added Acts 1937, 45th Leg., H.B. # 16, § 8.]

Effective May 20, 1937.

Sec. 19-E. Renting Motor Vehicle to Another.

(a) No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a non-resident, then duly licensed under the laws of the State or Country of his residence, except a non-resident whose home State or Country does not require that an operator be licensed.

(b) No person shall rent a motor vehicle to another until he has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his presence.

(c) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number

of the license of said latter person, and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer, or officer or employee of the Department. [As added Acts 1937, 45th Leg., H.B. # 16, § 8.]

Effective May 20, 1937.

Art. 6699. County traffic officers

The Commissioners Court of each county, acting in conjunction with the Sheriff, may employ not more than two (2) regular deputies, nor more than two (2) additional deputies for special emergency to aid said regular deputies, to be known as county traffic officers to enforce the highway laws of this State regulating the use of the public highways by motor vehicles. Said deputies shall be, whenever practicable, motorcycle riders, and shall be assigned to work under the direction of the Sheriff. They shall give bond and take oath of office as other deputies. They may be dismissed from service on request of the Sheriff whenever approved by the Commissioners Court, or by said Court on its own initiative, whenever their services are no longer needed or have not been satisfactory. The Commissioners Court shall fix their compensation prior to their selection, and may provide at the expense of the county, necessary equipment for said officers. The pay of said deputies shall not be included in the settlements of the Sheriff in accounting for the fees of office. For the purpose of this law, the Commissioners Courts of counties whose funds from the motor registration fees provided herein amount to Thirty Thousand Dollars (\$30,000) or over, may use not exceeding five (5) per cent of said funds; and not to exceed seven and one-half (7½) per cent of such funds in counties receiving a lesser amount from such registration. Said deputies shall at all times cooperate with the police department of each city or town within the county, in the enforcement of said traffic laws therein and in all other parts of the county, and shall have the same right and duty to arrest violators of all laws as other Deputy Sheriffs have. [As amended Acts 1937, 45th Leg., H.B. # 936, § 1.]

Amendment of 1937, effective April 26, 1937, declared an emergency making the act effective on and after its passage.

Section 2 of the amendatory acts of 1937

TITLE 117—SALARIES

Art.

6819a. Salaries of Supreme and Appellate Court judges [New].

6819a—1. Salary of State's Attorney before Court of Criminal Appeals [New].

Art.

6819a—2. Salaries of District Judges in counties of 325,000 to 350,000 [New].

6819e. Salaries of judges of District Courts [New].

Article 6813. Enumeration

Salaries of Secretary of State, Attorney General, Comptroller of Public Accounts, State Treasurer and Commissioner of the General Land Office, see Const. art. 4, §§ 21-23.

Governor's annual salary fixed at \$12,000, effective third Tuesday in January, 1937, by Const. art. 4, § 5.

Art. 6819a. Salaries of Supreme and Appellate Court judges

From and after August 31, 1937, the Judges of the Supreme Court and the Judges of the Court of Criminal Appeals of this State shall each be paid an annual salary of Eight Thousand (\$8,000.00) Dollars, payable in equal monthly installments; Judges of the Supreme Court Commission of Appeals and Judges of the Commission in Aid of the Court of Criminal Appeals shall each be paid an annual salary of

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Seven Thousand Five Hundred (\$7,500.00) Dollars, payable in equal monthly installments; Judges of the several Courts of Civil Appeals of this State shall each be paid an annual salary of Six Thousand Five Hundred (\$6,500.00) Dollars, payable in equal monthly installments. [Acts 1927, 40th Leg., p. 411, ch. 273, as amended Acts 1933, 43rd Leg., p. 377, ch. 148, § 1; Acts 1935, 44th Leg., p. 908, ch. 355, § 1; Acts 1937, 45th Leg., S.B. # 137, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act repeals all conflicting laws and parts of laws, section 3 provides that if any section is held invalid, such invalidity shall not affect the remainder and section 4 declares an emergency to give effect to the act on and after

its passage, but the vote thereon was not recorded.

That portion of this article which fixes the salaries of the Judges of the various District Courts and of the Criminal District Courts was repealed by Acts 1937, 45th Leg. (H.B. # 10) § 2.

Art. 6819a—1. Salary of State's Attorney before Court of Criminal Appeals

Sec. 1-a. The State's Attorney before and in Aid of the Court of Criminal Appeals shall be paid an annual salary of Six Thousand (\$6,000.00) Dollars, payable in equal monthly installments. [Acts 1937, 45th Leg., S.B. # 137, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Art. 6819a—2. Salaries District Judges in counties of 325,000 to 350,000

Sec. 1-b. The District Judges of counties having a population of 325,000 and not over 350,000 according to the last preceding Federal Census shall receive the salary of Seven Thousand Five Hundred (\$7,500.00) Dollars per year including the salary as Juvenile officers; providing that only Five Thousand (\$5,000.00) Dollars be paid out of State Funds and Two Thousand Five Hundred (\$2,500.00) Dollars out of County Funds. [Acts 1937, 45th Leg., S.B. # 137, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Art. 6819e. Salaries of judges of District Courts

From and after the passage of this Act, the Judges of the various District Courts and of the Criminal District Courts of this State shall each be paid an annual salary of Five Thousand Dollars (\$5,000), payable in equal monthly installments. [Acts 1937, 45th Leg., H.B. # 10, § 1.]

Effective Feb. 17, 1937.

Section 3, of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the salaries of the Judges of the various District Courts and of the

Criminal District Courts of this State; repealing that portion of Section 1, of House Bill No. 417, Chapter 355, of the Acts of the Regular Session of the Forty-fourth Legislature which fixes the salaries of said Judges, and declaring an emergency. [Acts 1937, 45th Leg., H.B. # 10.]

TITLE 121—STOCK LAWS

CHAPTER ONE—MARKS AND BRANDS

Art.
6899c. Marks and brands of livestock in

Jasper and Newton Counties
[New].

Art. 6899c. Marks and brands of livestock in Jasper and Newton Counties

This Act shall apply to Jasper and Newton Counties only. In said Counties each owner of any livestock mentioned in Chapter 1, of Title 121, of the Revised Civil Statutes of Texas, of 1925,¹ shall within six (6) months after this Act takes effect have his mark and brand for such stock recorded in the office of the County Clerk of the Counties; and providing that such owners shall so record such marks and brands whether the same have been heretofore recorded or not. The owner shall have the right to have his mark and brand recorded in his name who according to the present records of said Counties first recorded the same in the Counties, or in event it can not be ascertained from the records who first recorded same in the Counties, then the person who has been using such mark and brand the longest shall have the right to have the same recorded in his name. After the expiration of six (6) months from the taking effect of this Act all records of marks and brands now in existence in said Counties shall no longer have any force or effect and after the expiration of six (6) months only the records made after this Act takes effect shall be examined or considered in recording marks and brands in said Counties. Immediately upon the taking effect of this Act the County Clerk of the Counties shall have this Act published in some newspaper of general circulation in the Counties for a period of thirty (30) days, which publication shall be paid for by the Counties out of the General County Fund. [As added Acts 1937, 45th Leg., H.B. # 1007, § 1.]

¹ Articles 6890-6899b.

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act relating to marks and brands of livestock in Jasper and Newton Counties; amending Articles 6899 of the Revised Civil Statutes of Texas, by adding thereto a new Section to be known as Article 6899c, requiring that each owner of any livestock mentioned in Chapter 1, of Title 121, of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect, have his mark and brand for such stock recorded at the office of the

County Clerk of said Counties; and providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from the taking effect of this Act all records and marks and brands now in existence in Jasper and Newton Counties shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said Counties; and further providing that the County Clerk shall publish this Act in some newspaper in general circulation in said Counties for a period of thirty (30) days; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1007.]

CHAPTER SIX—STOCK RUNNING AT LARGE

Art.

6954a. Election as to turkeys running at large [New].

Art. 6954. [7235] Petition

Upon the written petition of one hundred (100) freeholders of any of the following Counties: Anderson, Aransas, Armstrong, Atascosa, Austin, Archer, Bastrop, Baylor, Bandera, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brewster, Briscoe, Brown, Brooks, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Castro, Chambers, Cass, Clay, Cherokee, Childress, Collingsworth, Coleman, Collin, Colorado, Cooke, Comanche, Concho, Crockett, Coryell, Cottle, Crosby, Cochran, Crane, Dallas, Dawson, Deaf Smith, Delta, Dallam, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, El Paso, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Fisher, Freestone, Gaines, Galveston, Goliad, Gray, Gregg, Guadalupe, Garza, Glasscock, Gillespie, Gonzales, Grimes, Grayson, Hale, Hamilton, Hansford, Harris, Harrison, Hays, Haskell, Hall, Hardeman, Hartley, Henderson, Hidalgo, Hill, Hood, Hopkins, Howard, Hockley, Hudspeth, Hunt, Hutchinson, Irion, Jeff Davis, Jim Hogg, Jim Wells, Jack, Jackson, Jones, Jefferson, Johnson, Karnes, Kaufman, Kent, Kimble, Knox, Kerr, Kendall, Kleberg, Lamar, Lampasas, Lavaca, Lamb, Lee, Leon, Limestone, Lynn, Lipscomb, Llano, Live Oak, Liberty, Lubbock, Madison, Mason, McLennan, Matagorda, McCulloch, Menard, Moore, Marion, Martin, Maverick, Medina, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Navarro, Nacogdoches, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Panola, Polk, Rains, Randall, Red River, Reagan, Reeves, Real, Refugio, Robertson, Rockwell, Runnels, Rusk, San Patricio, San Saba, San Jacinto, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Starr, Sutton, Swisher, Tarrant, Tom Green, Taylor, Terrell, Throckmorton, Titus, Travis, Upshur, Uvalde, Victoria, Val Verde, Van Zandt, Washington, Walker, Waller, Webb, Williamson, Wilson, Wise, Ward, Wharton, Wood, Wheeler, Winkler, Wichita, Wilbarger, Young, Zapata, and Zavala, or upon the petition of fifty (50) freeholders of any such subdivision of a county as may be described in the petition, and defined by the Commissioners Court of any of the above named counties, Commissioners Court of said county shall order an election to be held in such county or such subdivision of a county as may be described in the petition and defined by the Commissioners Court on the day named in the order for the purpose of enabling the freeholders of such county or subdivision of a county as may be described in the petition and defined by the Commissioners Court to determine whether horses, mules, jacks, jennets, and cattle shall be permitted to run at large in such county or such subdivision of a county as may be described in the petition and defined by the Commissioners Court. [As amended Acts 1926, 39th Leg., 1st C.S., p. 17, ch. 11, § 1; Acts 1927, 40th Leg., p. 363, ch. 245, § 1; Acts 1929, 41st Leg., p. 9, ch. 5, § 1; Acts 1929, 41st Leg., 1st C.S., p. 185, ch. 71, § 1; Acts 1929, 41st Leg., 3rd C.S., p. 240, ch. 8, § 1; Acts 1930, 41st Leg., 4th C.S., p. 25, ch. 15; Acts 1931, 42nd Leg., p. 781, ch. 313; Acts 1932, 42nd Leg., 3rd C.S., p. 10, ch. 9, § 1; Acts 1933, 43rd Leg., Sp.L., p. 57, ch. 48, § 1; Acts 1935, 44th Leg., Sp.L., p. 1199, ch. 34, § 1; Acts

1937, 45th Leg., H.B. #395, § 1; Acts 1937, 45th Leg., 2nd C.S., H.B. #86, § 1.]

Effective April 23, and Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER SEVEN—PROTECTION OF STOCK RAISERS

Art. 7005. [7305] [5043] Counties exempt

The Counties of Anderson, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Bee, Bell, Bexar, Borden, Bowie, Bosque, Brooks, Brazoria, Brazos, Brewster, Brown, Burleson, Burnet, Caldwell, Callahan, Calhoun, Camp, Carson, Cass, Chambers, Cherokee, Childress, Clay, Cockran, Coke, Collin, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Delta, Deaf Smith, Denton, DeWitt, Dickens, Dimmit, Donley, Eastland, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Galveston, Garza, Gillespie, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hall, Hamilton, Hansford, Hardeman, Harris, Harrison, Hartley, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jackson, Jack, Jasper, Jeff Davis, Jim Hogg, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kleberg, Knox, Kinney, Lamar, Lamb, Lampasas, Lavaca, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Mason, Matagorda, Maverick, Medina, McLennan, Midland, Milam, Mills, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Rains, Randall, Reagan, Red River, Refugio, Robertson, Rockwall, Rusk, Reeves, Sabine, San Augustine, San Patricio, Schleicher, Shelby, Smith, Shackelford, Somervell, Starr, Scurry, Stephens, Sterling, Tarrant, Terrell, Terry, Throckmorton, Titus, Tom Green, Trinity, Tyler, Uvalde, Upshur, Upton, Val Verde, Van Zandt, Victoria, Ward, Washington, Wharton, Wheeler, Wilbarger, Willacy, Williamson, Wilson, Wise, Winkler, Young, and Zapata are hereby exempted from the provisions of this Chapter, and from all laws regulating the inspection of hides and animals. [As amended, Acts 1927, 40th Leg., p. 156, ch. 105; Acts 1931, 42nd Leg., p. 755, ch. 299; Acts 1931, 42nd Leg., p. 852, ch. 360; Acts 1933, 43rd Leg., p. 14, ch. 10; Acts 1933, 43rd Leg., Spec.L., p. 59, ch. 49; Acts 1933, 43rd Leg., p. 636, ch. 213; Acts 1937, 45th Leg., H.B. # 91, § 1.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment. declared an emergency and provided that the act should take effect from and after its passage.
Section 2 of the amendatory Act of 1937

Art. 7008. Fees of inspector

Sec. 2. Provided this Act does not apply to the following Counties in Texas: Bowie, Marion, Morris, Titus, Cass, Brewster, Crockett, El Paso, Hudspeth, Culberson, Ward, Reeves, Winkler, Ector, Midland, Glasscock, Reagan, Upton, Crane, Real, Sutton, Edwards, Kinney, Val Verde, Terrell, Presidio, Jeff Davis, Pecos, Uvalde, Medina, Maverick, Taylor, Scurry, Eastland, Callahan, Throckmorton, Jones, Shackelford, Haskell, Stephens, Jefferson, Hardin, Liberty, Orange, Red River, Lamar, Delta, Hopkins, Franklin, Brazos, Robertson, Burleson, Lee, Washington, Bastrop, Kaufman, Henderson, Navarro, Freestone, Anderson, Bell, Erath, Bosque, Hamilton, Coryell, Galveston, Chambers, Matagorda, Wharton, Fort Bend, Travis, Williamson, San Saba, Llano, Lampasas,

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Burnet, Tarrant, Dallas, Hill, Ellis, Johnson, Hood, Somervell, Baylor, Wichita, Archer, Young, Clay, Hardeman, Fcard, Knox, Wilbarger, Parker, Palo Pinto, Jack, Denton, Wise, Hunt, Collin, Rains, Rockwall, Harrison, Rusk, Gregg, Panola, Shelby, Bailey, Lamb, Hale, Floyd, Motley, Cottle, King, Dickens, Lubbock, Hockley, Yoakum, Terry, Lynn, Kent, Stonewall, Crosby, Borden, Dawson, Gaines, Andrews, Howard, Martin, Cochran, Leon, Montgomery, San Jacinto, Pope, Grimes, Houston, Trinity, Walker, Van Zandt, Smith, Wood, Upshur, Camp, Fayette, Lavaca, Colorado, Austin, Waller, Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Oldham, Hutchinson, Lipscomb, Moore, Ochiltree, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Atascosa, Goliad, Live Oak, Refugio, Bee, Karnes, Aransas, DeWitt, San Patricio, Wilson, Victoria, Jackson, Calhoun, Sabine, Tyler, Cherokee, Jasper, Newton, Nacogdoches, San Augustine, Angelina, Cooke, Grayson, Fannin, Bexar, Kerr, Kendall, Bandera, Blanco, Hays, Comal, Caldwell, Guadalupe, Gonzales, Falls, Limestone, McLennan, Milam, Harris, Comanche, Mills, Brown, Coleman, McCulloch, Mason, Menard, Coke, Concho, Runnels, Tom Green, Irion, Schleicher, Sterling, Gillespie, and Kimble. [Acts 1931, 42nd Leg., 1st C.S., p. 73, ch. 33; as amended Acts 1937, 45th Leg., H.B. # 711, § 1.]

Amendment of 1937, effective May 22, 1937. declared an emergency and provided that the act should take effect from and after its passage.

Section 2 of the amendatory Act of 1937

CHAPTER EIGHT—LIVE STOCK SANITARY COMMISSION

Art.

7014a. Owner vaccinating own hogs [New].

Art. 7009. [7312-13] Commission

The Governor shall within thirty (30) days after this Act becomes effective by, and with the advice and consent of the Senate appoint three (3) citizens of the State, as a Live Stock Sanitary Commission of the State of Texas. The Governor shall designate one such member as a Chairman. Each Commissioner shall give a bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) to be approved by the Comptroller. Each Commissioner shall be a bona fide resident of and a practical live stock raiser in the community from which he may be appointed, and shall have been actively engaged in said business for at least five (5) years next preceding the date of his appointment. One of said Commissioners shall be appointed from the West, one from the South, and one from the Eastern portion of Texas. The word 'Commission' as used in this Chapter shall mean the Live Stock Sanitary Commission of the State of Texas. That beginning with the appointment of said Commissioners, the term of office of the members of the Commission shall be for a period of six (6) years, except that those first appointed shall be appointed for two (2), four (4), and six (6) years, and that they shall serve until their successors have been appointed and have duly qualified. All vacancies which shall occur in the Commission for any reason shall be filled in the same manner as hereinbefore provided and shall be for the unexpired term. [As amended Acts 1937, 45th Leg., H.B. # 597, § 1.]

Amendment of 1937, effective April 9, 1937. declared an emergency making the act effective on and after its passage.

Section 2 of the amendatory act of 1937

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

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| <p>Art.
7047a—1. [New, repealed.]
7047a—2. Tax on coin operated machines; definitions [New].
7047a—3. Amount of tax [New].
7047a—4. Exemptions from tax [New].
7047a—5. Public nuisance [New].
7047a—6. Injunction; venue; payment of tax as condition precedent; records [New].
7047a—7. Serial number; stamping on machine; penalty [New].
7047a—8. Rules and regulations; forfeitures of licenses or permits [New].
7047a—9. Licenses or permits; collection of tax; payment of expenses [New].
7047a—10. Existing laws; violations not authorized [New].
7047a—11. Records; forfeiture of licenses [New].
7047a—12. Violations of act; penalty; suit to recover penalty [New].
7047a—13. Offenses; penalty [New].
7047a—14. Sealing machine to prevent operation; penalty for breaking seal [New].
7047a—15. Apportionment of tax; tax levy by counties and cities [New].</p> | <p>Art.
7047a—16. Taxes, penalties and interest under re-enacted or repealed statutes [New].
7047a—17. Partial invalidity [New].
7047a—18. Apportionment of tax [New].
7047a—19. Admission taxes; reports; apportionment [New].
7047c—2. Supervisors of printing and manufacturing of cigarette tax stamps; designation by Director of Cigarette Tax Division; expenditures for designing and manufacturing of stamps, etchings, dies, etc. [New].
7047e. Stamp tax on secured notes and obligations [New].
7047f. Tax on prizes offered by amusement or business enterprises [New].
7047g. Tax on ores, marble and cinnabar ore [New].
7047h. Allocation of revenues [New].
7047i. Partial invalidity [New].
7047j. Injunctions against collection of excise, occupation, and certain other taxes, fees, and penalties [New].</p> |
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Art. 7047. [7355] [5049] Occupation taxes

40A. Sulphur producers: Each person who owns, controls, manages, leases, or operates, any sulphur mine, or mines, wells or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State as occupation tax for the quarter ending on said date an amount equal to One Dollar and Three Cents (\$.03) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax herein levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the quarter in which the business was begun shall be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person or concern was engaged in the business during said preceding quarter and multiplying the quotient by ninety, and multiplying the product by One Dollar and Three Cents (\$.03). Said tax shall be in lieu of the tax imposed by House Bill No. 251, Chapter 212, Acts of the Regular Session of the Forty-second Legislature,¹ but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

except that fifty-five cents (55¢) of said funds shall go into the Available School Fund and the remainder to the General Fund. [Acts 1931, 42nd Leg., p. 355, ch. 212, § 1, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 6.]

¹ Article 7047, subsec. 40A.

Effective Oct. 31, 1936.

45. (a) There is hereby levied an occupation tax on every person in this State manufacturing or producing carbon black; said tax to be one-twelfth of one cent ($\frac{1}{12}$ of 1¢) per pound on all carbon black produced or manufactured where the market value is four cents (4¢) per pound or less and three per cent (3%) of the value of all carbon black produced or manufactured where the average market value is in excess of four cents (4¢) per pound. The market value of carbon black, as that term is herein used, shall be the actual market value thereof plus any bonus or premium or other thing of value paid therefor, or the actual value which carbon black does reasonably bring in the due course of trade.

(b) The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the twenty-fifth day of each succeeding month, based on the business done the preceding calendar month, and on or before said date such manufacturer or producer shall make and deliver to the Comptroller a verified report showing all carbon black manufactured, produced and sold upon which a tax accrues, and such other information as the Comptroller may require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by such distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25), nor more than One Thousand Dollars (\$1,000) for each violation and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as penalty, and after the first twenty (20) days he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black.

(f) The term "carbon black" as herein used includes all black pigment produced in whole or in part from natural gas, casinghead gas or residue gas by the impinging of a flame upon a channel disk or plate, and the tax herein imposed shall reach all products produced in such manner. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 7.]

Effective Oct. 31, 1936.

Art. 7047a—1. [Repealed by Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4.]

Effective Oct. 31, 1936.

Art. 7047a—2. Tax on coin operated machines; definitions

The following words, terms and phrases as used in this Act¹ are hereby defined as follows:

(a) The term "owner" as used herein shall mean and include any person, individual, firm, company, association or corporation owning or having the care, control, management or possession of any "coin-operated machine" in this State.

(b) The term "operator" as used herein shall mean and include any person, firm, company, association or corporation who exhibits, displays or permits to be exhibited or displayed, in his or its place of business or upon premises under his or its control, any "coin-operated machine" in this State.

(c) The term "coin-operated machine" as used herein shall mean and include every machine or device of any kind or character which is operated by or with coins, or metal slugs, tokens or checks, "merchandise or music coin-operated machines" and "skill or pleasure coin-operated machines" as those terms are hereinafter defined, shall be included in such terms.

(d) The term "merchandise or music coin-operated machine" as used herein shall mean and include every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending merchandise, commodities, confections or music and which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: candy machines, gum machines, sandwich machines, handkerchief machines, sanitary drinking cups, phonographs, pianos, graphophones, radios, and all other coin-operated machines which dispense or vend merchandise, commodities, confections or music.

(e) The term "skill or pleasure coin-operated machines" as used herein shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine or machines dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined herein. The following are expressly included within said term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford skill or pleasure. Provided that every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of skill or pleasure shall be considered as skill or pleasure machines and taxed at the higher rate fixed for such machines.

(f) The term "service coin-operated machines" shall mean and include pay toilets, pay telephones and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4 (a-f).]

¹ Articles 7047—2 to 7047—18.

Articles 7047a—2 to 7047—19 effective
Oct. 31, 1936.

Art. 7047a—3. Amount of tax

Every "owner" as that term is hereinabove defined, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machines" as that term is de-

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fined herein, shall pay and there is hereby levied on every coin-operated machine as defined in this Act,¹ except such as are exempted herein, an annual occupation tax determined by the following schedule:

Series "1." (a) For each "merchandise or music coin-operated machine" as that term is hereinabove defined, a fee of Twenty Dollars (\$20), where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of five cents (5¢), or represents a value in excess of five cents (5¢).

And (b) a fee of Two Dollars and Fifty Cents (\$2.50) where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of one cent (1¢) and not exceeding five cents (5¢) or represents a value in excess of one cent (1¢) and not exceeding five cents (5¢).

Series "2." (a) For each "skill or pleasure coin-operated machine" as that term is hereinabove defined, a fee of Sixty Dollars (\$60) where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of five cents (5¢), or represents a value in excess of five cents (5¢).

And (b) a fee of Thirty Dollars (\$30) where the coin, fee or token used, or which may be used, in the operation thereof, is one of the value in excess of one cent (1¢) and not exceeding five cents (5¢) or represents a value in excess of one cent (1¢) and not exceeding five cents (5¢).

Provided that nothing herein shall prevent the "operator" of such machines from paying the tax levied in this Act for the account of the "owner" but the payment of such tax by such operator or other person shall not relieve the owner from the responsibility of complying with all provisions of this Act including the keeping of the records required herein. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 1.]

¹ Articles 7047—2 to 7047—18.

Art. 7047a—4. Exemptions from tax

Gas meters, pay telephones, pay toilets, and cigarette vending machines which are now subject to an occupation or gross receipts tax and "service coin-operated machines" as that term is defined, are expressly exempt from the tax levied herein, and the other provisions of this Section.¹ [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 2.]

¹ Articles 7047—2 to 7047—18.

Art. 7047a—5. Public nuisance

Every coin-operated machine subject to the payment of the tax levied herein, and upon which the said tax has not been paid as provided herein, is hereby declared to be a public nuisance, and may be seized and destroyed by the Comptroller of Public Accounts, his agents, or any law enforcing agency of this State as in such cases made and provided by law for the seizure and destruction of common nuisances. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 3.]

Art. 7047a—6. Injunction; venue; payment of tax as condition precedent; records

(a) Any person who shall invoke the power and remedies of injunction against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin him from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued,

shall file such proceedings in a Court of competent jurisdiction in Travis County, Texas, and venue for such injunction is hereby declared to be in Travis County, Texas.

(b) Before any restraining order or injunction shall be granted against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin the collection of the taxes levied herein the applicant therefor shall pay into the suspense account of the State Treasury all taxes, fees, and assessments then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent, or attorney. Provided that said applicant shall keep for the inspection at all times of the Attorney General and the Comptroller of Public Accounts of this State or their authorized representatives, a well bound book record, showing all coin-operated vending machines possessed and in operation during the pendency of such restraining order or injunction. Such book record shall show the make and kind of machine, the serial number, the date such machine was put in operation, and the location and serial number of each and every machine possessed or operated within the State. Provided further that said applicant shall make and file with the Comptroller of Public Accounts daily, excluding Sundays and legal holidays, a report on a form to be prescribed by said Comptroller, showing the ownership, make and kind, and the serial number of every such machine operated by said applicant within this State. Said report shall also show the county, city, and location within the city and county of each machine and the date such machine was placed in operation. In the event the location or ownership of any machine is changed such information shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing if said applicant fails, at any time before the case shall have been finally disposed of by the Court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and legal holidays, into the suspense account of the Treasurer all taxes, fees and assessments due and thereafter becoming due, and such taxes shall be paid before such machines are operated, exhibited or displayed for operation within this State. The Comptroller of Public Accounts of this State, or his authorized representatives, may file in the Court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Act or has violated the same. Upon the filing of said affidavit, the Clerk of said Court shall issue notice to the said applicant to appear before such Court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the Court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the Sheriff of the county in which applicant resides or any other peace officer in this State. In the event the injunction is finally dissolved or dismissed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the funds to which such taxes, fees and assessments are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant.

No person, firm, association or corporation required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein except that person, firm, association or corporation as may have applied for

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said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees, and assessments due by him under the provisions of this Act and said restraining order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees, and assessments involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as herein before provided. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 4.]

Art. 7047a—7. Serial number; stamping on machine; penalty

(a) For the purpose of enabling the Comptroller to determine the tax liability of the owners or operators of coin-operated vending machines in this State, or whether a tax liability has incurred, every individual, company, corporation, and/or association who owns, operates or displays any coin-operated machine in this State shall have a separate and different serial number stamped by indenture into the stationary wood or metal of each machine in a manner that such serial number cannot be removed or transferred to another machine, and such serial number shall be shown on the application for a license or permit and on the license or permit issued. If any person shall indent the same serial number on more than one machine or shall exhibit, display or have in his possession within this State any coin-operated machine with the license or permit of the Comptroller attached thereto and bearing the wrong serial number or a license or permit bearing a different serial number from the serial number stamped by indenture on said machines, he shall be guilty of a misdemeanor and punished as set out in Subsection 11 of this Section. The possession, exhibition or display of more than one machine bearing the same serial number operated under the same management or ownership, shall be prima facie evidence that the owner of such machines indented the same serial number on each machine for the purpose of evading payment of the tax levied herein.

(b) Provided further, the license or permit issued by the Comptroller to evidence the payment of the tax levied herein shall be securely attached to the machine in a manner that will require continued application of steam and water to remove the same. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 5.]

Art. 7047a—8. Rules and regulations; forfeitures of licenses or permits

(a) The Comptroller of Public Accounts shall have the authority to make and publish rules and regulations, not inconsistent with this Act¹ or the other laws or the Constitution of this State or of the United States, for the enforcement of the provisions of this Act and the collection of the revenues hereunder.

(b) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Act or any rule and regulation promulgated hereunder, the Comptroller of Public Accounts shall have the power and authority to forfeit all licenses or permits issued to any of the foregoing persons by giving written notice, stating the reason justifying such forfeiture and the same shall be forfeited five (5) days from date of such notice. No new licenses or permits shall be issued within

a period of one (1) year to anyone whose licenses or permits have been forfeited, except at the discretion of the Comptroller of Public Accounts. If the licenses or permits of any individual, company, corporation, or association owning, operating or displaying coin-operated machines in this State is forfeited, such individual, company, corporation, or association shall not operate, display or permit to be operated or displayed such machines until the licenses or permits are reinstated or until new licenses or permits are granted. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 6.]

¹ Articles 7047a—2 to 7047a—18.

Art. 7047a—9. Licenses or permits; collection of tax; payment of expenses

The Comptroller of Public Accounts of this State is hereby authorized, ordered and directed to collect, and issue licenses or permits for the payment of the tax levied herein and to employ all the agencies of the law available to him for the enforcement of the provisions of this Act.¹ Provided, however, that where the tax, as now levied under the provisions of Chapter 116, Acts of the First Called Session of the Forty-third Legislature as amended by Chapter 354, Acts of the Regular Session of the Forty-fourth Legislature,² upon coin-operated vending machines, has been paid at the time of the taking effect of this Act, then, and in that event, the said Comptroller of Public Accounts is authorized and empowered to make proper adjustment thereof, by crediting pro rata, upon the annual basis, any unearned tax, to the payment of the tax hereby levied. Provided further, that Ten Thousand Dollars (\$10,000) of the funds derived under the provisions of this Act shall be set aside annually in a special fund subject to the use of the Comptroller and so much of said fund as may be necessary shall be expended for the printing of applications, licenses and permits and for the administration and enforcement of the provisions of this Act and so much of the proceeds of said fund shall be and the same is hereby appropriated for said purposes, same to be paid as needed; any unexpended portion of said fund so specified shall at the end of the biennium be paid in the proper proportion to the funds to which the tax levied herein is apportioned. Provided, however, that any salaries so here authorized to be paid shall not exceed in any particular the amount specified in the general appropriation bill passed at the Forty-fourth Legislature, Regular Session, for the same, similar or like services. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 7.]

¹ Articles 7047a—2 to 7047a—18.

² Article 7047a—1.

Art. 7047a—10. Existing laws; violations not authorized

Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State or the Constitution of this State. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 8.]

Art. 7047a—11. Records; forfeiture of licenses

Every "owner" of one or more coin-operated machines in this State shall keep for a period of two (2) years for the inspection at all times by the Attorney General and Comptroller of Public Accounts of this State, or their authorized representatives, a complete book record in a well bound book of each and every such machine purchased, received, pos-

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sessed, handled, exhibited or displayed in this State. Such record shall be kept at a permanent address which address shall be designated on the application for permit and shall include the following information: The make, kind and serial number of each such machine, the date acquired or received in Texas, the date placed in operation, the location or locations of each machine by serial number, including county, city, street and/or rural route number, the date of each and every change in location, the name and complete address of each and every operator together with the serial numbers of the machines operated by such operator, the full name and address of the owner, or if other than an individual the principal officers or members thereof and their addresses. Such information shall be shown completely and separately for each and every machine. The Comptroller of Public Accounts shall be authorized and it shall be his duty to forfeit all licenses, permits of every owner failing to keep such records or failing to present such records for inspection at any time upon demand by said Comptroller of Public Accounts or his authorized representatives. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 9.]

Art. 7047a—12. Violations of act; penalty; suit to recover penalty

If any "owner" of a coin-operated machine within this State shall (a) deliver to or permit to be delivered to any "operator" a coin-operated machine without a valid license or permit issued by the Comptroller of Public Accounts of this State being attached thereto, or (b) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said license or permit being attached thereto, or (c) if any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a license or permit issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (d) shall exhibit, display or have in his possession in this State any coin-operated machine without a serial number stamped by indenture into the wood or metal of said coin-operated machine, or (e) if any person shall exhibit, display or possess any coin-operated machine in this State with a license or permit attached thereto and bearing a different serial number from the serial number stamped by indenture on the machine to which said permit is attached, or (f) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (g) shall fail to keep such records, or (h) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (i) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act,¹ or (j) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (k) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (l) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General of this State in a Court of competent jurisdiction in Travis County, Texas, or any Court having jurisdiction. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 10.]

¹ Articles 7047a—2 to 7047a—18.

Art. 7047a—13. Offenses; penalty

(a) If any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a valid license or permit issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (b) shall exhibit, display or have in his possession in this State any coin-operated machine without a serial number stamped by indenture into the wood or metal of said coin-operated machine, or (c) if any person shall exhibit, display or possess any coin-operated machine in this State with a license or permit attached thereto bearing a different serial number from the serial number stamped by indenture on the machine to which said permit is attached, or (d) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (e) shall fail to keep such records, or (f) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (g) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act,¹ or (h) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (i) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (j) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 11.]

¹ Articles 7047a—2 to 7047a—18.

Art. 7047a—14. Sealing machine to prevent operation; penalty for breaking seal

Provided that the Comptroller of Public Accounts, or his authorized representatives, in lieu of seizing any coin-operated machine upon which the tax has not been paid as provided in Subsection (3) herein, may seal such machine in a manner that will prevent further operation. Whoever shall break the seal affixed by said Comptroller or his authorized representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken, or shall permit to be exhibited or displayed in his place of business any coin-operated machine after said seal has been broken shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Subsection 11 of this Section.¹ [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 12.]

¹ Article 7047a—13.

Art. 7047a—15. Apportionment of tax; tax levy by counties and cities

Except as herein provided in this Act,¹ one-fourth ($\frac{1}{4}$) of the net revenue derived from this Section shall be credited to the Available School Fund of the State of Texas and three-fourths ($\frac{3}{4}$) of the net revenue derived from this Section shall be credited to the Old Age Assistance Fund of this State. Provided that all counties and cities within this State may levy an occupation tax on coin-operated machines in this State in an amount not to exceed one-half ($\frac{1}{2}$) of the State tax levied herein. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 13.]

¹ Articles 7047a—2 to 7047a—18.

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Art. 7047a—16. Taxes, penalties and interest under re-enacted or repealed statutes

That all occupation taxes, penalties and interest accruing to the State of Texas by virtue of any of the reenacted or repealed provisions as set out in this Act¹ before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

The passage of this Act shall not affect offenses committed, or prosecutions begun, under any preexisting law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 14.]

¹ Articles 7047a—2 to 7047a—18.

Art. 7047a—17. Partial invalidity

If any section, subdivision, paragraph, sentence, clause or word of this Act¹ be held invalid or unconstitutional, the remaining portions of same shall, nevertheless, be valid; and it is declared that such remaining portions would have been enacted, notwithstanding such unconstitutional portion thereof. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 15.]

¹ Articles 7047a—2 to 7047a—18.

Subsection 16 of section 4 of article 3 of Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, repealed Acts 1933, 43rd Leg., 1st

C.S., p. 320, ch. 116, as amended by Acts 1935, 44th Leg., p. 905, ch. 354, and further repealed "all laws and parts of laws that conflict herewith."

Art. 7047a—18. Apportionment of tax

The revenues derived under and by virtue of the tax levied in this Section¹ shall be credited one-fourth ($\frac{1}{4}$) to the Available School Fund and three-fourths ($\frac{3}{4}$) to the Texas Old Age Assistance Fund, credited by the Treasurer. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 4, subsec. 17.]

¹ Articles 7047a—2 to 7047a—18.

Art. 7047a—19. Admission taxes; reports; apportionment

Every person, firm, association of persons, or corporation owning or operating any place of amusement which charges a price or fee for admission, including exhibitions in theaters, motion picture theaters, opera halls, and including horse racing, dog racing, motorcycle racing, automobile racing, and like contests and exhibitions, and including dance halls, night clubs, skating rinks, and any and all other places of amusements not prohibited by law, shall file with the State Comptroller a quarterly report on the 25th day of January, April, July, and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received and the price or fee for admission; provided, however, no tax shall be levied under this Act on any admission collected for dances, moving pictures, operas, plays, and musical entertainments, all the proceeds of which inure exclusively to the benefit of State, religious, educational, or charitable institutions, societies, or organizations,—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual; and provided further, that theaters, motion picture theaters, operas, plays, and other like amusements where the admission charge is less than fifty-one (51) cents per person,

and where no tax is due hereunder, shall be relieved from the filing of a report and the payment of a tax levied under the provisions of this Section. Said person, firm, association of persons, or corporations, at the time of making such report shall pay to the Treasurer of this State a tax in rates and amounts as follows:

1. A tax of one cent on each ten (10) cents or each fractional part thereof paid as admission to theaters, motion picture theaters, operas, plays, and like amusements where the admission charged is in excess of fifty-one (51) cents per person.

2. A tax of one cent on each ten (10) cents or each fractional part thereof paid as admission to horse racing, dog racing, motorcycle racing, automobile racing, and like mechanical or animal contests and exhibitions. This Subsection shall be effective on December 1, 1936.

3. A tax of one cent on each ten (10) cents or a fractional part thereof paid as admission to dance halls, night clubs, skating rinks, and any and all other like places of amusements, contests, and exhibitions where the admission charge is in excess of fifty-one (51) cents.

4. On the amounts paid for admission by season ticket, subscription, or lease for admission to any place of amusement, a tax equivalent to ten (10) per centum of the amount paid therefor, provided a single admission to the place of amusement would be subject to taxation under the foregoing provisions.

5. On all passes or complimentary tickets to any place of amusement where a tax on admission is levied under this Section of this Act a tax equivalent to one cent on each ten (10) cents or each fractional part thereof charged as admission where the admission charge to such place of amusement is in excess of fifty-one (51) cents per person.

6. All the revenues derived under and by virtue of this Section shall be credited by the Treasurer, one-fourth to the Available School Fund, and three-fourths to the Texas Old Age Assistance Fund. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 6, as amended Acts 1937, 45th Leg., H.B. # 377, § 1.]

Amendment of 1937, effective April 15, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency making the act effective on and after its passage.

[Art. 7047b. Tax on producers of natural gas; definitions; reports to Comptroller]

Payment and rate of tax

Sec. 3. A tax shall be paid by each such producer on the amount of gas produced and saved within this State, and on gas imported into the State, upon the first sale thereof in intrastate commerce upon the following basis:

A tax equivalent to three per cent (3%) of the market value of the total amount of gas produced and saved within this State, or sold, if imported into this State, at the actual market value thereof, as and when produced. Provided, however, that if any gas is imported into this State from another State, in which latter State a severance, occupation or excise tax is imposed, the person importing such gas shall not be required to pay another tax thereon under the provisions of this Act.

The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of such producer to keep accurate records of all gas produced, making monthly reports under oath as hereinafter provided.

The purchaser of gas shall pay the tax on all gas purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

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Provided, that if gas produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said gas were sold.

The tax herein levied shall be paid monthly on the twenty-fifth day of each month on all gas produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action. [Acts 1931, 42nd Leg., p. 111, ch. 73, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 8.]

Effective Oct. 31, 1936.

[Art. 7047c—1. Cigarette Tax; definitions]

Section 1. The following words, terms and phrases, as used in this Act are hereby defined as follows:

(a) "Cigarette" shall mean and include any roll for smoking made wholly or in part of tobacco irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition herein shall not be construed to include cigars.

(b) "Individual Package of Cigarettes" shall mean and include the smallest package of cigarettes ordinarily sold at retail and shall include any and every package of cigarettes upon which a Federal stamp or token is required, evidencing the payment of Federal tax.

(c) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation, trustee, agency or receiver.

(d) "Place of Business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored or kept for the purpose of sale or consumption; or if sold from any vehicle, train, or cigarette vending machine, the vehicle, train, or cigarette vending machine on which or from which such cigarettes are sold shall constitute a place of business.

(e) "Stamp" shall mean the stamp or stamps printed, manufactured or made by authority of the Board as hereinafter defined, and issued, sold or circulated by the Treasurer and by the use of which the tax levied hereunder is paid.

(f) "Counterfeit Stamp" shall mean any stamp, label, print, tag or token which evidences, or purports to evidence, the payment of any tax levied by this Act, and which stamp, label, print, tag or token has not been printed, manufactured or made by authority of the Board as hereinafter defined and/or issued, sold or circulated by the Treasurer.

(g) "Previously Used Stamp" shall mean and include any stamp which is used, sold, or possessed for the purpose of sale or use, to evidence the payment of the tax herein imposed on an individual package of cigarettes after said stamp has, anterior to such use, sale or possession, been used on a previous or separate individual package of cigarettes to evidence the payment of tax as aforesaid.

(h) "First Sale" shall mean and include the first sale or distribution of cigarettes in intrastate commerce, or the first use or consumption of cigarettes within this State.

(i) "Drop-shipment" shall mean and include any delivery of cigarettes received by any person within this State when payment for such cigarettes is made to the shipper or seller by or through a person other than the consignee.

(j) "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas or his duly authorized assistants and employees.

(k) "Treasurer" shall mean the State Treasurer of Texas or his duly authorized assistants and employees.

(l) "Attorney General" shall mean the Attorney General of the State of Texas or his duly authorized assistants and employees.

(m) "Distributor" shall mean and include every person in this State who manufactures or produces cigarettes or who ships, transports, or imports into this State or in any manner acquires or possesses cigarettes and makes a "first sale" of the same in this State; the said term shall also include every person in this State who in any manner acquires or possesses unstamped cigarettes for the purpose of making a "first sale" of the same within this State.

(n) "Wholesale Dealer" shall mean and include every "person other than a distributor or a salesman in the employ of a manufacturer and handling only the products of his employer who engages in the business of selling or distributing cigarettes in this State for the purpose of resale.

(o) "Retail Dealer" shall mean and include every person other than a distributor or wholesale dealer who shall sell, distribute, or offer for sale or distribution or possess for the purpose of sale or distribution, cigarettes irrespective of quantity or amount or the number of sales or distributions; and it shall also mean and include every person other than a distributor or wholesale dealer who distributes or disposes of cigarettes in unbroken individual packages or in quantities of ten (10) or more as gifts or prizes or in any other manner of distribution or disposal where no sale is involved.

(p) "Distributing Agent" shall mean and include every person in this State who acts as an agent of any person outside the State by receiving cigarettes in interstate commerce and storing such cigarettes subject to distribution or delivery upon order from said person outside the State to distributors, wholesale dealers and retail dealers. [As amended Acts 1937, 45th Leg., S.B. # 247, § 2.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Cigarette stamp tax board; sale of stamps]

Sec. 3. A "Cigarette Tax Stamp Board" composed of the Board of Control of this State, designated hereafter as the "Board", is hereby created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit in the State at a discount of four per cent (4%) from the face value; provided that if any distributor fails or refuses to comply with any provision of the cigarette tax law or violates the same such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equalling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

From the effective date of this Act, one-third of the net revenue derived from the Act levying the Cigarette Tax shall be credited to the Available School Fund of the State of Texas, and two-thirds shall be credited to the Texas Old Age Assistance Fund.

The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of any new design; provided, it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design affixed to the individual package shall, for the purpose of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

Any person who shall have in his possession any cigarette tax stamps of an old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26¹ of this Act.

Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided, further, that

stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided, further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamp.

Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided, further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting such refund. Such refund shall be made from revenue derived from this Act before such revenue is allocated as herein provided. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 1; Acts 1937, 45th Leg., S.B. # 247, § 3.]

¹ Penal Code, art. 131c—1, § 26.

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Order by distributor for stamps shipped with draft attached]

Sec. 3B. A distributor may order stamps shipped with draft attached to the bank with which said distributor regularly transacts business. The Treasurer is hereby authorized to ship stamps in compliance with such orders to any such bank authorized to do business in Texas under the laws of this State and the United States. Such stamps, together with the invoice required under Section 3 of the Cigarette Tax Law, shall be attached to a form draft to be prescribed by the State Auditor, which draft shall show the date of shipment, the name and address of the bank, the name of the distributor and the amount of said draft. If said draft is not paid within twenty (20) days of the date thereon, it shall be returned together with the stamps attached to the Treasurer. Any distributor failing to take up such draft and stamps as ordered by him shall be notified at the end of such twenty (20) day period by the Treasurer to appear within five (5) days before the Treasurer to show cause why he should not be denied the privilege of ordering stamps as herein provided, and if such distributor shall fail to show good cause, the Treasurer is hereby authorized to discontinue the shipment of stamps with draft attached as herein provided. [As added Acts 1937, 45th Leg., S.B. # 247, § 4.]

Effective 90 days after May 22, 1937, date of adjournment.

[Permits to distributors]

Sec. 4. Every distributor, wholesale dealer and retail dealer in this State now engaged or who desires to become engaged, in the sale or use of cigarettes upon which a tax is required to be paid, shall, within thirty (30) days from the date this law becomes effective, file with the Comptroller an application for a cigarette permit as a distributor, wholesale dealer or retail dealer, as the case may be, said application to be accompanied by a fee of Twenty-five (\$25.00) Dollars if for a distributor's permit, or a fee of Fifteen (\$15.00) Dollars if for a wholesale dealer's permit, or a fee of Five (\$5.00) Dollars if for a retail dealer's permit. Said applications shall be on forms prescribed by the Comptroller, to be furnished upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said forms shall set forth: (a) the manner under which such distributor, wholesale dealer or retail dealer transacts or intends to transact such business as distributor, wholesale dealer or retail dealer; (b) the principal office, residence and place of business in Texas for which the permit is to apply; (c) and if other than an individual, the principal officers or members thereof not to exceed three (3), and their addresses. The Comptroller may require any other information as he may desire in said application. No distributor, wholesale dealer or retail dealer shall sell any cigarettes until such application has been filed and the fee prescribed paid for a permit and until such permit is obtained. Said permits shall expire twelve (12) months from the date the distributor, wholesale dealer or retail dealer first sells cigarettes or engages in the business of selling cigarettes or from the expiration date of the permit previously issued to said distributor, wholesale dealer or retail dealer, but may be renewed upon like application and upon payment of another fee in the amount prescribed for the kind of permit desired. An application shall be filed and a permit obtained for each place of business owned or operated by a distributor, wholesale dealer or retail dealer. Provided, however, that any distributor manufacturing, importing, or acquiring in any other manner, cigarettes for his own personal use or consumption and not to be disposed of by sale, gift, or otherwise shall not be required to obtain a distributor's permit but shall be required to make the report required herein of a distributor and to comply with all other provisions of this Act affecting a distributor; provided, further, that the Treasurer shall be authorized to sell stamps to such distributors acquiring cigarettes for their own personal use or consumption and not for sale or other disposal, in lesser quantities than unbroken sheets of one hundred (100) stamps.

Upon receipt of the application and fee herein provided for, the Comptroller shall issue to every distributor, wholesale dealer or retail dealer for the place of business designated, a nonassignable consecutively numbered permit, designating the kind of permit and authorizing the sale of cigarettes in this State. Said permit shall provide that the same is revocable and shall be forfeited or suspended upon any violation of any provision of this Act or any reasonable rule or regulation adopted by the Comptroller. If such permit is revoked or suspended said distributor, wholesale dealer or retail dealer shall not sell any cigarettes from such place of business until a new permit is granted or the suspension of the old permit removed. Provided, that the Treasurer may refuse to sell stamps to any person who has not obtained a permit to engage in business as a distributor or to any distributor whose permit has been revoked or suspended until such permit has been re-instated or a new permit issued.

The permit shall at all times be publicly displayed by the distributor, wholesale dealer or retail dealer at his place of business so as to be

easily seen by the public and the persons authorized to inspect the same. Provided, that any distributor, wholesale dealer, or retail dealer who is the legal owner and holder and is operating under any unexpired permit which has been issued by the Comptroller as provided by Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, shall not be required to make application for and obtain from the Comptroller a permit as required herein prior to the expiration of the twelve (12) months for which such permit was issued. Provided, further, that any person who operates both as a distributor and wholesale dealer in the same place of business shall only be required to obtain a distributor's permit for the particular place of business where such operation of said business is conducted, but if any distributor or wholesale dealer sells cigarettes at both wholesale and retail, an additional permit as a retail dealer shall be required. Any unexpired permit may be returned to the Comptroller for credit on the unexpired portion thereof only upon the purchase of a permit of a higher classification.

If the application is for a permit to sell cigarettes from or by means of a cigarette vending machine, train, automobile or other vehicle, the serial number of said vending machine, the make, motor number and State highway license number of said automobile or other vehicle and the name of the railway company and number of said train shall be shown on the applications. [As amended Acts 1937, 45th Leg., S.B. # 247, § 5.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Time for affixing stamps; possession of unstamped cigarettes prima facie evidence of violation of Act]

Sec. 5. Every person, other than a distributing agent, bonded distributor or common carrier shall before receiving or accepting delivery of any cigarettes without stamps affixed to evidence the payment of the tax, obtain from the Treasurer the requisite amount or number of stamps necessary to stamp such cigarettes and the possession of any unstamped cigarettes without the possession of the requisite amount or number of stamps shall be prima facie evidence that said cigarettes are possessed for the purpose of making a "first sale" thereof without stamps and without payment of the tax levied herein.

Every distributor in this State shall cause all cigarettes received by him to have the requisite denominations and amount of stamps affixed to represent the tax as levied herein; provided, however, that any distributor who has obtained from the Treasurer and has in his possession the requisite amount and number of stamps necessary to stamp all cigarettes received by him may hold such cigarettes for a period of not longer than forty-eight (48) hours, excluding Sundays and legal holidays, before affixing the stamps as required herein. [As amended Acts 1937, 45th Leg., S.B. # 247, § 6.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Bond of interstate dealers]

Sec. 6. Any distributor or other person engaged in interstate business who shall, within thirty (30) days from the date this law becomes effective, execute and file with the Comptroller a good and sufficient surety bond signed by the distributor or other person and a good and sufficient surety company or companies authorized to do business in this State shall be permitted to set aside such part of his stock of cigarettes as may be necessary for the conduct of such interstate business without affixing the stamps required by this Act. Provided, that such bond shall be approved by and acceptable to the Comptroller in an amount

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of not less than Two Hundred Fifty (\$250.00) Dollars and not more than double an amount necessary to stamp the largest quantity of cigarettes set aside at any time for the conduct of such business, and any quantity so set aside which is larger than that permitted in said bond shall be subject to the same requirements as cigarettes purchased or possessed for intrastate sale. Said interstate stock shall be kept in an entirely separate part of the building, separate and apart from stamped stock. The amount of the bond required of such distributor or other person shall be fixed by the Comptroller, and subject to the minimum limitation herein provided; additional bond or a new bond shall be required by the Comptroller at any time an existing bond becomes insufficient or the surety thereon becomes unsatisfactory, which additional bond or new bond shall be supplied within ten (10) days after demand. Provided, that said bond or bonds shall be payable to the State of Texas in Austin, Travis County, Texas, and conditioned for the full, complete and faithful performance of all the conditions and requirements of this Act affecting said distributor or other person on a form to be prescribed by the Comptroller, with the approval of the Attorney General. Should the distributor or other person fail or refuse to supply a new bond or additional bond within ten (10) days after demand, the Comptroller shall have the power and authority to cancel forthwith any existing bond made and executed by and for said distributor or other person. In the event said bond is cancelled, said distributor or other person shall within forty-eight (48) hours after said cancellation, excluding Sundays and legal holidays, cause any and all cigarettes received prior to said cancellation to have the requisite denomination and amount of stamps affixed to represent the tax as herein provided. Cigarettes set aside for interstate business which are not kept entirely separate and apart from intrastate stock shall be considered as intrastate stock and subject to the same requirements as cigarettes possessed for the purpose of a "first sale".

The Comptroller is hereby authorized to prescribe and promulgate rules and regulations not inconsistent with this Act or Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, for the purpose of regulating the sale of cigarettes for movement into States adjoining Texas when said cigarettes have the cigarette tax stamp of such adjoining State affixed thereto. [As amended Acts 1937, 45th Leg., S.B. # 247, § 6.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Record and report of purchases and sales]

Sec. 7. (a) Every distributor, wholesale dealer and retail dealer shall keep at each place of business in Texas, except as otherwise provided, for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General a complete record of all cigarettes purchased or received by said distributor, wholesale dealer or retail dealer, including all invoices, bills of lading, way bills, freight bills, express receipts or copies thereof and all other shipping records furnished by the carrier and the seller or shipper of said cigarettes, and in addition thereto a book record in a well bound book which will provide complete information of all cigarettes purchased or received by said distributor, wholesale dealer or retail dealer at each place of business. Such book record shall show the date said cigarettes were received, with the designation of whether drop-shipment or otherwise, the name and address of the person from whom purchased and from whom received, the point from which shipped or delivered, the point at which received, the name of the carrier, if shipped by common carrier, the name of the boat or barge if

shipped by water, whether registered mail, insured parcel post or open mail if received by mail, the number and kind of cigarettes received with stamps affixed thereto, and, if a distributor, the number and kind of cigarettes received without the stamps affixed, and an inventory or inventories on the first of each month, showing the number and kind of cigarettes on hand with stamps affixed thereto, and, if a distributor, the number and kind without stamps affixed.

(b) Every distributor shall keep at each place of business in Texas, except as otherwise provided, for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General the invoice of stamps purchased or received from the Treasurer and in addition thereto a book record in a well bound book which will provide complete information of all stamps purchased from the Treasurer and the disposition thereof. Such record shall show the date of receipt of stamps purchased, the number or quantity of stamps, the denomination, and amount paid for stamps so purchased. Such record shall also show the number or quantity, the denomination and face value of stamps sold by requisition from the Comptroller with the name of purchaser of said requisitioned stamps, the number or quantity, the denomination and face value of stamps sent to or received from the Treasurer as an exchange and the inventory or inventories of all stamps on hand on the first day of each month, said inventory to show the number or quantity, denomination and face value of said stamps.

(c) Every distributor and wholesale dealer shall keep at each place of business in Texas, except as otherwise provided, for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General a complete record of each and every sale, distribution or use of cigarettes, regardless of whether or not the tax is due upon said cigarettes under the provisions of this Act, upon an invoice to be furnished by said distributor or wholesale dealer which invoice shall be issued in duplicate except when the sale or distribution is made by drop-shipment in which event the invoice shall be issued in triplicate, said invoice shall show the date of sale, distribution or use, the purchaser and his address, the means of delivery, the name of the carrier if delivered by common carrier, whether registered mail, insured parcel post or open mail if delivered through the mail, the designation of drop-shipment if the sale is a drop-shipment made by a distributor, the number and kind of cigarettes sold, and if the sale is by a distributor the number and kind of cigarettes with the stamps affixed to each individual package, and the number and kind of cigarettes without the stamps affixed thereto, and in addition thereto the said invoices shall be supported by the receipts and other records furnished by the carrier of such cigarettes. The original of said invoice shall be delivered to the purchaser and the duplicate shall be kept by the distributor or wholesale dealer as the case may be; provided, however, that when the cigarettes are distributed or exchanged in any manner where no sale is involved that an explanation of such transaction shall be stated on said invoice. Provided further, that where a distributor or wholesale dealer sells cigarettes at retail it will be sufficient for said distributor or wholesale dealer and he shall be required to issue an invoice to his retail department for cigarettes to be sold at retail and such stock of cigarettes invoiced for retail sales shall be kept separate and apart from the other stock of said distributor or wholesale dealer; provided, further, that every distributor and wholesale dealer shall keep at each place of business in Texas for a period of two (2) years for the inspection at all times by the authorized authorities a book record in a well bound book or books of all cigarettes sold, distributed or used by said distributor or wholesale dealer. Such book rec-

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ord shall include all information required to be kept on the invoice aforesaid.

(d) Provided, that every person engaged in the business of selling cigarettes in interstate commerce only shall be required to keep such records and make such reports to the Comptroller as are required of a distributor.

(e) Salesmen in the employ of a manufacturer, and handling only the products of his employer, who engage in the business of selling or distributing cigarettes with stamps affixed in this State for the purpose of resale, shall be required to keep the same records, for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General, as are required of a wholesale dealer. Such salesmen shall also be required to deliver the original of the invoice required to be made to the purchaser or recipient of said cigarettes.

(f) "Solicitors" engaged in the business of soliciting orders for cigarettes for shipment to points within this State shall keep in Texas for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General a complete record of all orders solicited and all orders taken for cigarettes for such shipments which record shall include the quantity and kind of cigarettes ordered or shipped, from whom ordered or by whom shipped, the full name and correct address of the purchaser, the date said cigarettes were ordered, and if available the date said cigarettes were shipped. Such record shall be kept for all cigarettes shipped to points within this State by the vendor whom the solicitor represents whether the order was taken by said solicitor or otherwise if said solicitor is given credit for or furnished records of such orders or such shipments. [As amended Acts 1937, 45th Leg., S. B. # 247, § 6.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Cigarette solicitors; permit; penalty]

Sec. 8a. No individual shall offer for sale or solicit any order in this State for the sale of any cigarettes for shipment to points within this State, for his own account or for the account of any person, firm, association or corporation, unless and until such person or individual shall have first filed an application for and obtained from the State Comptroller a solicitor's permit. Such permit shall authorize the permittee to solicit orders for the sale of cigarettes and shall set forth the name and address of the vendor and/or employers whom the solicitor represents, and such solicitor shall not represent any vendor and/or employers whose name does not appear upon such permit. The fee for such permit shall be One Dollar (\$1) per year or part thereof, and the permit shall be issued for the calendar year, beginning January 1, 1937, at which time this Section of this Act shall become effective. Such permittee shall, on the fifth day of each month, file with the Comptroller, on proper forms to be supplied him by said official, copies of all orders solicited by him in the State during the preceding calendar month for cigarettes, said copies to show the quantity and kind of cigarettes ordered, by whom ordered, from what person, firm or corporation ordered, the full name and correct address of purchaser, the date said cigarettes were ordered and any other information which may be required by the Comptroller; and the failure of such permittee to comply with the provisions hereof shall subject him to the forfeiture of his permit, after five (5) days notice and opportunity to be heard by the Comptroller of Public Accounts. No new permit shall be issued for a period of one (1) year to anyone whose permit has been forfeited, except in the discretion of the Comptroller.

If any person shall offer for sale or solicit any order in this State for the sale of cigarettes for shipment to a point within the State, without then and there having a valid solicitor's permit, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-Five Dollars (\$25) nor more than Two Hundred Dollars (\$200). [Acts 1935, 44th Leg., p. 575, ch. 241, § 8a, as added by Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 1a.]

Effective Jan. 1, 1937.

[Report by distributors to Comptroller]

Sec. 9. (a) Every distributor shall make and deliver to the Comptroller in Austin, Travis County, Texas, on the 10th day of each month a report for the preceding calendar month, which report shall be properly sworn to and executed by the distributor, or his representative in charge, and which shall show the date said report was executed, the name and address of said distributor, the month which the report covers, the number of unstamped and the number of stamped cigarettes on hand at the beginning of the month, the number of unstamped and the number of stamped cigarettes purchased and received during the month, the number of unstamped and the number of stamped cigarettes returned from customers or received from any other source, the number of unstamped and the number of stamped cigarettes sold, used, lost, stolen, returned to the factory or disposed of in any other manner, and the number of unstamped and the number of stamped cigarettes on hand at the end of the month. Said report shall show separately the number of cigarettes sold or distributed in intrastate commerce and the number sold or distributed in interstate commerce. Said report shall also show the number, denomination and face value of unused stamps on hand at the beginning of the month covered in the report, the number, denomination and face value of stamps purchased and received, the number, denomination and face value of stamps sold, used, lost, stolen, exchanged, returned to the Treasurer, or disposed of in any other manner and the number, denomination and face value of stamps on hand at the end of the month covered in the report. Provided, that said report shall also show separately all drop-shipments handled by or through said distributor during the period reported, which information shall include the date of shipment, the invoice number, the name and address of the consignee, the number and brand of such cigarettes and the means of delivery and a copy or copies of all invoices of such drop-shipments shall be attached to and sent with said report. Provided, further, that the Comptroller may prepare and furnish a form prescribing the order in which the information required herein shall be set up in said report but the failure of any distributor to obtain such form from the Comptroller shall be no excuse for the failure to file a report containing all the information required to be reported herein.

(b) If any distributor or other person fails or refuses to pay any tax, penalties and cost of audit herein provided, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said tax claims, in any judicial proceedings, any report filed in the office of the Comptroller by such distributor or his representative, or a certified copy thereof certified to by the Comptroller or his Chief Clerk, showing the number of cigarettes sold by such distributor or his representatives, upon which such tax, penalty and cost of audit has not been paid, or any audit made by the Comptroller or his representative from the books or records of said distributor, or other person when signed and sworn to by such representative as being made from the records of said distributor or persons from whom such distributor has

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bought, received, or delivered cigarettes, whether from a transportation company or otherwise, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

(c) In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing section, and attach or file as an exhibit any report or audit of said distributor, and an affidavit made by the Comptroller or his representatives that the taxes shown to be due by said report or audit are unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas, 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder. [As amended Acts 1937, 45th Leg., S.B. # 247, § 7.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

[Carriers to permit access to records]

Sec. 18. Every common and contract carrier transporting cigarettes in this State, whether in intrastate or interstate commerce, shall keep a complete record in Texas of all cigarettes so transported or handled which record shall show separately for each transaction the name of the consignor and consignee, the date of delivery, and the number or quantity of cigarettes transported or handled. Such records together with all other books or records which may be in the custody of said carriers showing the shipment of cigarettes shall be open to the inspection at all times of the Comptroller, Attorney General, and their authorized representatives and said common and contract carriers shall give and permit such authorities free access to all such books and records and all cigarettes in the custody of such carriers. [As amended Acts 1937, 45th Leg., S.B. # 247, § 8.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

Art. 7047c—2. Supervisor of printing and manufacturing of cigarette tax stamps; designation by Director of Cigarette Tax Division; expenditures for designing and manufacturing of stamps, etchings, dies, etc.

That the Director of the Cigarette Tax Division of the State Comptroller's Department be authorized to designate to the Cigarette Tax Stamp Board a competent person who is experienced in printing, to personally represent him (the Director of the Cigarette Tax Division) in the printing and manufacturing of the cigarette tax stamp as the law provides in the second paragraph of Section 30 of the Cigarette Tax Law enacted at the Regular Session of the Forty-fourth Legislature;¹ the Cigarette Tax Stamp Board shall employ at once such competent person as has been designated by the Director of the Cigarette Tax Division of the State Comptroller's Department and shall continue such person in the employment of the Tax Stamp Board until such times as the Director of the Cigarette Tax Division shall designate some other person as his personal representative; and that the Tax Stamp Board shall issue a monthly voucher, not to exceed One Hundred and Seventy-five Dollars (\$175) per month, to be paid said designated representa-

tive out of the fund appropriated by the General Departmental Appropriation Bill at the Regular Session of the Forty-fifth Legislature to the State Treasurer to be expended by the Tax Stamp Board for the designing and manufacturing of cigarette tax stamps, etchings, dies, etc. [Acts 1937, 45th Leg., 2nd C.S., H.B. #146, § 1.]

1 Article 7047c—1, § 30.

Effective Nov. 1, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Director of the Cigarette Tax Division of the State Comptroller's Department to designate a personal representative as supervisor of the printing and manufacturing of cigarette tax stamps; relieving the Director of the Cigarette Tax Division of the burdens of the personal supervision imposed by Section 30 of House Bill 755, Acts, Forty-fourth Legislature; authorizing the designation by the Director of the Cigarette Tax Division to the Stamp Tax Board of a personal representative of the Director; the employment of such representative by the Stamp Tax Board; and providing for the payment of services to be rendered by such personal representatives; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 146.]

WHEREAS, The Cigarette Tax Law enacted at the Forty-fourth Legislature, with

amendments, provides, in Section 30 of said Act, that the Director of the Cigarette Tax Division of the State Comptroller's Department shall personally supervise the printing or manufacturing of all cigarette tax stamps under the contract as awarded by the State Board of Control, etc.; and,

WHEREAS, It is impracticable for said Director to give his personal attention at all times to the printing and manufacturing of said tax stamps because of numerous other duties required of him in the enforcement of said Cigarette Tax Law; and

WHEREAS, It is to the best interest of the State and will afford better protection to the State if a competent person experienced in printing is present at all times during the actual printing or manufacturing process of said stamps and that it will afford better protection to the State if such person is permanently employed to supervise and have charge of the stamps which have been printed, which at times reach a value of several hundred thousand dollars and which must be stored at the printing plant on account of lack of space in the Treasurer's vaults; therefore,

Art. 7047e. Stamp tax on secured notes and obligations

(a) Except as herein otherwise provided, there is hereby levied and assessed a tax of ten cents (10¢) on each One Hundred Dollars (\$100) or fraction thereof, over the first Two Hundred Dollars (\$200), on all notes and obligations secured by chattel mortgage, deed of trust, mechanic's lien contract, vendor's lien, conditional sales contract and all instruments of a similar nature which are filed or recorded in the office of the County Clerk under the Registration Laws of this State; providing that no tax shall be levied on instruments for an amount of Two Hundred Dollars (\$200) or less. After the effective date of this Act, except as hereinafter provided, no instrument creating a lien of any character to secure the payment of money, or reserving title to any property until the purchase price thereof shall have been paid, shall be filed or recorded by any County Clerk in this State until there has been affixed to such instrument stamps in accordance with the provisions of this Section; and providing further that the provisions of this Section shall not apply to renewals or extensions of any notes or obligations, and specifically shall not apply to refunding of existing bonds or obligations. And providing further this Section shall not apply to notes and obligations or instruments securing same taken by or on behalf of the United States or any corporate agency or instrumentality of the United States Government in carrying out a governmental purpose as expressed in any Act of the Congress of the United States.

(b) Payment of the tax hereby levied shall be evidenced by affixing the stamps herein provided for to all instruments included within the provisions of subdivision (a) of this Section, and it shall be the duty of the State Treasurer to have engraved or printed the stamps necessary to comply with this Section, and to sell the same to all persons upon

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demand and payment therefor. The stamps shall be of such design and denominations as to the Treasurer shall seem proper, and shall show the amount of the tax, the payment of which is evidenced thereby, and shall contain the words "Note Stamp". The State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds therefrom under his official bond. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 9.]

Effective Oct. 31, 1936.

Art. 7047f. Tax on prizes offered by amusement or business enterprises

(a) Every person, firm, or corporation conducting a theatre, place of amusement, or any business enterprise in connection with the operation of which a prize in the form of money or something of value is offered or given to one or more patrons of such theatre, place of amusement, or business enterprise, and not given to all patrons thereof paying the same charge for any certain service, commodity, or entertainment, shall make a verified monthly report on the twenty-fifth day of each month to the Comptroller of Public Accounts of the State of Texas, showing the amount of money so given in prizes, and the value of all prizes or awards so given in connection with such business during the next preceding month.

(b) There is hereby levied a tax equal to twenty per cent (20%) of the value of all such money, prizes, and awards given in connection with the operation of each and all of the foregoing business enterprises, and at the time of making the report to the Comptroller of Public Accounts, the owner or operator of any such business shall pay to the State Treasurer such tax upon the total amount of money, prizes, and awards so given during the next preceding month. The tax herein levied shall be a joint liability of the owner and operator of such business, and, in the event any person engaged in any business operated in the manner hereinabove mentioned shall fail or refuse to pay said tax on or before the twenty-fifth day of each month, he shall forfeit to the State of Texas not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) for each violation, and each day's delinquency shall constitute a separate offense. The State of Texas shall have a prior lien for all delinquent taxes and penalties on all property used by the owner or operator of any such business, and the Attorney General of the State of Texas may file suit for the collection of such tax and penalties in any District Court of Travis County, Texas, and for the foreclosure of such lien, and may enjoin the operation of any such business until such tax is paid.

(c) Any person managing or controlling any business enterprise required to file a report under paragraph one hereof, who shall fail or refuse to file such report on or before the twenty-fifth day of each month, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100), and such punishment shall be in addition to the civil penalties herein provided for.

(d) The provisions of this Section shall not apply to enterprises operating under Chapter 10 of the Acts of the Forty-third Legislature, First Called Session,¹ and all amendments thereto, and nothing in this Section contained shall be construed to legalize or authorize the operation of any contest, practice or device now prohibited by law. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 10.]

¹ Penal Code, art. 655a.

Art. 7047g. Tax on ores, marble and cinnabar ore

(a) There is hereby levied an occupation tax upon the commercial producers of the following natural resources engaged in producing and severing from the soil and/or waters the following natural resources: ores, marble, and cinnabar ore. The tax levied is predicated upon the quantity severed and produced and shall be paid at the following rates:

1. On ores, five cents (5¢) per ton of 2000 lbs.
2. On marble, ten cents (10¢) per ton of 2000 lbs.
3. On cinnabar ore, ten cents (10¢) per ton of 2000 lbs.

(b) The tax imposed under the provisions of this Section shall be the primary liability of any person, firm, association, company or corporation owning, controlling, managing or leasing any natural resources who produces in any manner any of the natural resources upon which a tax is imposed herein by taking such natural resources from the earth or waters of this State. The producer of any of the natural resources upon which a tax is imposed under the provisions of this Section shall make such tax payments to the Treasurer of this State, as provided for by the other provisions of this Act.

(c) Each person, firm, association, company, or corporation who produces the natural resources on which a tax is imposed under the provisions of this Section shall make quarterly on the first days of January, April, July and October of each year a report to the Comptroller, sworn to by such person, before an officer authorized to administer oaths in this State, or if such person be other than an individual, so sworn to by its president, secretary, or other duly authorized officer, on such forms as said Comptroller shall prescribe, showing the total quantity of natural resources produced by said producer during the quarter next preceding the date of the report, the county in which the natural resources are produced, the correct description of the properties from which the natural resources are produced, the correct name and address of the first purchaser of said natural resources, and the price received therefor, and such other information as the Comptroller may require, and at the time of making and filing said report, shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date in amounts as imposed under the provisions of this Section.

(d) The term "commercial producer" is hereby defined as any person, firm, association, company or corporation which severs or produces any ores, marble, or cinnabar ore in excess of one thousand (1,000) tons during any one calendar year.

(e) For the tax, penalties and interest herein provided for, the State shall have a prior and preferred lien on all such natural resources. Said lien shall extend to and be enforceable against any property, either real or personal or both, owned by any person or persons made liable for the taxes herein levied, which property is not exempt from forced sale by reason of existing law or the Constitution of this State.

The reports required to be filed herein shall be filed not later than twenty-five (25) days after the quarter for which the tax herein levied is payable. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 11.]

Effective Oct. 31, 1936.

Art. 7047h. Allocation of revenues

All revenues derived and collected under the provisions of this Act, except where otherwise specifically allocated, shall be deposited one-fourth ($\frac{1}{4}$) to the credit of the Available School Fund, and the remainder to the credit of the General Revenue Fund of the State. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 12.]

Effective Oct. 31, 1936.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 7047i. Partial invalidity

If any provision or section of this Act is held unconstitutional or invalid, the same shall not operate to defeat the whole Act, but all other parts shall stand and remain in full force and effect. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 5, § 1.]

Effective Oct. 31, 1936.

Section 2 of article 5 of Acts 1936, 44th emergency, making act effective from and after its passage.

Art. 7047j. Injunctions against collection of excise, occupation, and certain other taxes, fees, and penalties

Section 1. Before any restraining order or injunction shall be granted in this State to restrain or enjoin the collection of any excise tax, occupation tax, sales tax, severance tax, gross receipts tax, license or permit tax, and registration or filing fee or any statutory penalties assessed for failure to pay any of such taxes and before any restraining order or injunction shall be granted against any State official or his authorized representatives in this State to restrain or enjoin the collection of any of the foregoing taxes, fees and penalties, the applicant therefor shall pay into the suspense account of the State Treasurer all taxes, fees and penalties then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent or attorney. Provided, however, that unless otherwise provided by statute, said applicant may, in lieu of paying such taxes, fees and penalties into the suspense account of the State Treasurer, file with said Treasurer a good and sufficient bond to guarantee the payment of such taxes, fees and penalties in an amount equal to twice the amount of all taxes, fees and penalties then due and which may reasonably be expected to become due during the pendency of said injunction. The amount of such bond and the sureties thereon shall be approved by and acceptable to the judge of the court granting said injunction and the Attorney General of this State and the application for said restraining order or injunction shall reflect under oath of the applicant, his agent or attorney, that said bond has been approved and filed as aforesaid. Whenever it appears to the Attorney General that any such bond has become insufficient to cover double the amount of the taxes, fees and penalties accruing subsequent to the granting of said injunction, the said Attorney General shall demand of said applicant that additional bond be filed. Provided, further, that said applicant shall keep during the pendency of the injunction and for a period of one (1) year thereafter open to the inspection at all times of the Attorney General of this State and all other State officials authorized to enforce the collection of such taxes, fees and penalties, a well bound book record of all taxes accruing during the pendency of such restraining order or injunction. Such book record shall include a record of purchases, receipts and sales or other disposition of all commodities, products, materials or articles upon which such taxes are levied or by which the amount of such taxes are measured. Provided further, that said applicant shall make and file with the State official authorized to enforce the collection of the tax involved, on Monday of each week, a report on a form or forms to be prescribed by said State official showing the weekly accruals of the tax involved together with total purchases, receipts, sales and other disposition of all commodities, products, materials and articles on which the tax involved in such injunction is levied or by which such tax is measured. Such report shall also show the name and address of all persons from whom such commodities, products, materials and articles were purchased or received and the name and complete address of all persons to whom such commodities, products, mate-

rials and articles were sold or distributed. If payment of the tax involved is evidenced or measured by the sale or use of stamps or tickets, a complete record of all such stamps and tickets used, sold or handled shall be kept and shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing, if said applicant fails, at any time before the case shall have been finally disposed of by the court of last resort, to keep the records or make and file the reports required herein or to comply with the Attorney General's demand to file any additional bond necessary to cover double the amount of taxes, fees and penalties accruing subsequent to the granting of said injunction or in the absence of a bond, to pay, on Monday of each week, into the suspense account of the Treasurer of Texas all taxes, fees and penalties involved in said litigation and thereafter becoming due, and such payments shall be made before said taxes, fees and/or penalties become delinquent. Any proceedings to enjoin the collection of any of the foregoing taxes shall be in a court of competent jurisdiction in Travis County, Texas.

The Attorney General or any State official authorized to enforce the collection of the tax involved may file in the court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Act or has violated the same. Upon the filing of said affidavit, the clerk of said court shall issue notice to the said applicant to appear before such court upon the date named therein, which shall be within five (5) days from service of such notice or as soon as the court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the sheriff of the county in which the applicant resides or any other peace officer in this State.

In the event the injunction is finally dissolved or dismissed the Treasurer shall make demand upon the applicant and his sureties on any bond filed in lieu of the payment of any taxes, fees and penalties, for immediate payment of said taxes, fees and penalties which if not paid shall be recovered in a suit to be filed by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any court having jurisdiction. Provided further, that if said injunction is dissolved or dismissed all taxes, fees and penalties or other funds paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the funds to which said taxes, fees and penalties are allocated. If the final judgment maintains the right of the applicant to a permanent injunction to prevent the collection of such taxes, the funds so deposited shall be refunded by the Treasurer to said applicant together with any depository interest the Treasurer may have collected for the deposit of such funds.

Secs. 2-8.

Sections 2-8 are amendments of Article 7047c-1, §§ 1, 3, 3b, 4-7, 9, 18, respectively.

Sec. 9. That all taxes, penalties and interest accruing to the State of Texas by virtue of any of the repealed or amended provisions as set out in this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties and interest accruing under the provisions of prior or pre-existing cigarette tax laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

Sec. 10. The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such

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offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense. Providing, that all other laws or parts of laws that conflict herewith are hereby in all things repealed.

Sec. 11. If any article, section, subsection, sentence, clause, phrase, or word of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, phrase, and word thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, phrases, or words should be declared unconstitutional. [Acts 1937, 45th Leg., S.B. # 247.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 12 of this Act declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act relating to the collection of excise and other taxes and relating to injunctions, bonds, the payment of taxes, refunds, reports, records, etc., and amending Sections 1, 3, 4, 5, 6, 7, 9, and 18 of House Bill No. 755, Chapter 241, General Laws of the Forty-fourth Legislature, Regular Session, and adding a new section thereto to be known as Section 3B; authorizing the Comptroller to promulgate certain rules and regulations to regulate the sale of cigarettes into other states when such cigarettes have the tax stamp of such other states affixed; prescribing records to be kept by salesmen of cigarette manufac-

turers and by persons soliciting orders for cigarettes for shipment to points within the State; providing for the shipment of cigarette stamps; requiring common and contract carriers to keep certain records open to inspection of certain State officials; preserving taxes, penalties and interest accruing to the State under the provisions of prior cigarette tax laws before the effective date of this Act; repealing laws in conflict herewith; providing that offenses committed or prosecutions begun under pre-existing laws may be conducted under the law as it existed at the time the offense was committed; providing that if any part of this Act shall be held invalid or unconstitutional such decision shall not affect the validity of the remaining portions thereof, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #247.]

[Art. 7057a. Occupation tax on oil produced; definitions]

[Amount and computation of tax; records and reports; time of payment; penalty; mode of payment and persons liable; disposition of proceeds]

Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of two and three-quarters cents ($2\frac{3}{4}\phi$) per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be two and three-quarters per cent ($2\frac{3}{4}\%$) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such oil will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer on other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in

which produced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

(7) The taxes herein provided for, when paid shall be, and hereby are, allocated as follows, to wit:

One-half ($\frac{1}{2}$) of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the Available School Fund, and one-half of such taxes when and as received by the Comptroller shall be paid to the State Treasurer to be placed to the credit of the General Fund of the State. [Acts 1933, 43rd Leg., p. 409, ch. 162, as amended Acts 1933, 43rd Leg., 1st C.S., p. 43, ch. 12, § 1; Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 4.]

Effective Oct. 31, 1936.

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art.

7064a. Tax on gross life, accident and health insurance premiums; re-

ports; exceptions; deductions [New].

Art. 7059. [7370] Telegraph companies

(a) Each individual, company, corporation, or association owning, operating, controlling, or managing any telegraph lines in this State, or owning, operating, controlling, or managing what is known as wireless telegraph stations, for the transmission of messages or aerograms and charging for the transmission of such messages or aerograms, shall make quarterly, on the first days of January, April, July, and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such companies, corporations, or associations, showing the gross amount received from all business within this State during the preceding quarter, in the payment of telegraphic or aerographic charges, including the amount received on full rate messages and aerograms and half rate messages and aerograms, and from the lease or use of any wires or equipment within the State during said quarter, excepting all business transacted

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for and on behalf of the agencies of the United States Government for which rates are prescribed by the Postmaster General. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to two and three-quarters ($2\frac{3}{4}$) per cent of said gross receipts, as shown by said report.

(b) No city or other political subdivision of this State, by virtue of its taxing power, police power, or otherwise shall impose an occupation tax or charge of any sort for the privilege of doing business upon any person, corporation, or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 2; Acts 1937, 45th Leg., 2nd C.S., H.B. #87, § 1.]

Effective Oct. 27, 1937.

Section 2 of the amendatory act of 1937 repeals all conflicting laws and parts of laws; Sec. 3 provided that: "If any section, paragraph, sentence, or clause hereof shall be held to be invalid or unconsti-

tutional, same shall not affect the remaining portion of this Bill." Section 4 declared an emergency and provided that the act should take effect from and after its passage.

Art. 7060. [7371] Gas, electric light, power or waterworks

Each individual, company, corporation or association, owning, operating or managing or controlling any gas, electric light, electric power or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation or association, at the time of making said report for any such incorporated town or city of twenty-five hundred (2500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last United States Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to seven-tenths of one per cent (0.7 of 1%) of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last United States Census next preceding the filing of said report, the said individual, company, corporation or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and three-eighths per cent ($1\frac{3}{8}\%$) of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works or water and light plant within this State owned and operated by any city or town, nor to any County or Water Improvement or Conservation District. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association, and distributed by another, the tax shall be paid by the distributor alone.

No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise shall impose an occupation tax or charge of any sort for the privilege of doing business upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise. [As amended Acts 1930, 41st Leg., 5th C.S., p. 168, ch. 34, § 1; Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 3.]

Effective Oct. 31, 1936.

Section 2 of Acts 1930, 41st Leg., 5th C.S.,

p. 168, ch. 134, repeals sections 17, 18 and 19 of article 7047.

Art. 7064. [7376] Insurance companies

Every insurance corporation, Lloyd's or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, livestock, fidelity, guaranty, surety, casualty, or any other kind or character of insurance business other than the business of life insurance, within this State, and other than fraternal benefit associations, at the time of filing its annual statement, shall report to the Commissioner of Insurance the gross amount of premiums received in the State upon property, and from persons residing in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts as follows: Shall pay a tax of three and twenty-five hundredths (3.25) per cent, provided, that any such insurance carriers doing two (2) or more kinds of insurance business herein referred to shall pay the tax herein levied upon its gross premiums received from each of said kinds of business; and the gross premium receipts where referred to in this law shall be the total gross amount of premiums received on each and every kind of insurance or risk written, and the same shall be reported and shown as the premium receipts in the report to the Commissioner of Insurance by the insurance carriers upon the sworn statements of two (2) principal officers of such carriers, less return premiums and dividends paid policyholders and the premium paid for reinsurance in companies authorized to do business in this State. Upon receipt by the Commissioner of the sworn statements, showing the gross premium receipts by such insurance carriers, the Commissioner shall certify to the State Treasurer the amount of taxes due by each insurance carrier, which tax shall be paid to the State Treasurer on or before the 1st of March following and the Treasurer shall issue his receipt to such carrier, which shall be evidence of the payment of such taxes. No such insurance carrier shall receive a permit to do business in this State until all such taxes are paid. If any such insurance carrier shall have as much as one-fourth of its entire assets, as shown by said sworn statement, invested in any or all of the following securities: Real estate in this State, bonds of this State or of any county, incorporated city or town of this State, or other property in this State in which by law such insurance carriers may invest their funds, then the annual tax of any such insurance carriers shall be one and one-fourth (1¼) per cent of its said gross premium receipts; and if any insurance carrier shall invest as aforesaid as much as one-half of its assets, then the annual tax of such insurance carrier shall be five-eighths of one per cent of its gross premium receipts, as above defined. No occupation tax shall be levied on insurance carriers, herein subjected to a gross premium receipt tax, by any county, city, or town. All mutual fraternal benevolent associations, now or hereafter doing business in this State under the lodge system and representative form of government, whether organized under the laws of this State or a foreign

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State or country, are exempt from the provisions of this Article. The taxes aforesaid shall constitute all taxes collectible under the laws of this State against any such insurance carriers, except the maintenance tax provided for under Article 4902, and the tax on premiums received under Workmen's Compensation Insurance Policies as provided for in Article 4906, Revised Civil Statutes of Texas of 1925, taxes provided in House Bill 258, Acts of the Forty-fifth Legislature, Regular Session, and no other tax shall be levied or collected from any insurance carrier by any county, city, or town, but this law shall not be construed to prohibit the levy and collection of State, county, and municipal taxes upon the real and personal property of such carrier. Purely co-operative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property, and not for profit, shall be exempt from provisions of this law; however, foreign assessment life and casualty companies admitted to do business in Texas, under Chapter 5, Title 78, Revised Civil Statutes of Texas of 1925, shall also pay a tax of three and twenty-five hundredths (3.25) per cent of their gross premium receipts from Texas business, as such receipts are herein defined. Provided, however, if any such company shall have an amount equal to one-half of the gross amount of assessments, dues, premiums, or other amounts collected from policyholders within this State during the preceding year, as shown by the sworn statement herein required to be filed, invested in any or all of the above-mentioned securities, then the annual tax of such company shall be two (2) per cent of its said receipts for such preceding period and if such company shall have invested as aforesaid an amount equal to the gross amount of such receipts for the preceding year as shown by said sworn statement, then the annual tax of such company shall be one-half of one per cent of its said receipts. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 5; Acts 1937, 45th Leg., H.B. # 441, § 1.]

Amendment of 1937, effective May 10, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 7064a. Tax on gross life, accident and health insurance premiums; reports; exceptions; deductions

Every group of individuals, society, association, or corporation domiciled in the State of Texas transacting the business of life, accident, or life and accident, health and accident insurance for profit, or for mutual benefit or protection, shall at the time of filing its annual statement report to the Commissioner of Insurance the gross amount of premiums received from or upon the lives of persons residing or domiciled in this State during the preceding year and each of such groups of individuals, society, association, or corporation shall pay an annual tax of one-half of one per cent of such gross premium receipts, provided, however, that this tax shall not apply to local mutual aid associations, or fraternal benefit societies or organizations. If any such group of individuals, society, associations, or corporation does more than one kind of insurance business, then it shall pay the tax herein levied upon the gross premium for each kind of insurance written; the provisions of this Act shall not apply to fraternal insurance organizations or societies that limit their membership to one occupation. The report of the gross premium receipts shall be made upon the sworn statement of two principal officers. Deductions from the gross premium receipts shall be allowed any group of individuals, society, association, or corporation for premiums paid for reinsurance in companies authorized to do business in Texas, and the ac-

quisition cost of all of the first year's premiums, except that on industrial business such companies shall be permitted to deduct one and one-half ($1\frac{1}{2}$) times the amount of the first year's premiums as acquisition costs. Upon receipt by him of the sworn statements above provided for, the Commissioner shall certify to the State Treasurer the amount of taxes due by each of such group of individuals, society, association, or corporation, which tax shall be paid to the State Treasurer on or before the 1st of March following and the Treasurer shall issue his receipt therefor as evidence of the payment of such taxes. No such group of individuals, association, or corporation shall receive a permit to do business until all such taxes are paid. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State against any such insurance organizations, except the fees provided for under Article 3920, Revised Civil Statutes of Texas of 1925, as amended by Acts of the Forty-second Legislature of 1931, Chapter 152, Section 1, and no other taxes shall be levied or collected by any county, city, or town except State, county, and municipal ad valorem taxes upon the real and personal property of such insurance organizations. [As added Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 5b; as amended Acts 1937, 45th Leg., H.B. # 441, § 1b.]

Amendment of 1937, effective May 10, 1937.

Art. 7070. [7382] Telephone companies

(a) Each individual, company, corporation or association owning, operating, managing or controlling any telephone line or lines or any telephones within this State, and charging for the use of the same, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half per cent ($1\frac{1}{2}\%$) of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand five hundred (2,500) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to one and three-fourths per cent ($1\frac{3}{4}\%$) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to two per cent (2%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants according to the last preceding Federal census.

(b) No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise shall impose an occupation tax or charge of any sort for the privilege of doing business upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of any tax now imposed by a franchise, and pro-

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vided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, § 1.]

Effective Oct. 31, 1936.

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art.

7155a. Local option elections in certain counties respecting annual tax for Domestic Livestock Protective Fund [New].

Art.

7164a. Address of owner required to be given on rendering real or other property for taxation [New].

Art. 7150. [7507] [5065] Exemption from taxation

Religious associations

Sec. 2a. That all property owned or used exclusively and reasonably necessary, in conducting any association engaged in the joint and threefold religious, educational and physical development of boys and girls, young men and young women, operating under a State or National Organization of like character, and not leased or otherwise used with a view to profit other than for the purpose of maintaining the buildings and Association, and all endowment funds of the above mentioned religious institutions, not used with a view to profit but for the purpose of maintaining the Association and buildings in doing religious work and for the educational or physical development of boys and girls, young men and young women, shall be exempt from taxation; provided that land property received by said institutions in payment and satisfaction of endowment fund loans or investments shall be exempt for two years only after foreclosure purchase of said land, and no longer. [Acts 1937, 45th Leg., S.B. # 13, § 1.]

Section 2 of this act reads as follows:

"Sec. 2. Whereas, by Chapter 81, page 153, Acts of the Regular Session of the Thirty-third Legislature, 1913, which said Act was incorporated in the Revised Civil Statutes of 1925 as Article 7150, Section 2, the Legislature undertook to exempt the property of the above mentioned institutions from ad valorem taxes, which said Act and Statute was held unconstitutional in violation of Article VIII, Section 2, of the Constitution (City of San Antonio v. Y. M. C. A., 285 S.W. 844); and

"Whereas, on November 6, 1928, by general election, Article VIII, Section 2 of the Constitution was amended so as to permit and authorize the Legislature to pass such exemption Statute, and it is necessary to re-enact the said Act of the Legislature of 1913 in order to make it effective and to carry out the purpose and intent and man-

date of the people in amending the Constitution."

Section 3 declared an emergency making the act effective on and after its passage. It did not note the Governor's approval.

Became law without Governor's signature April 26, 1937.

Title of Act:

An Act to exempt from taxation the property owned or used exclusively and reasonably necessary in conducting any Association engaged in promoting threefold religious, educational and physical development of boys and girls, young men and young women operating under a State or National Organization of like character, and all endowment funds of such institutions, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #13.]

Art. 7152. [7509] [5067] How rendered

All property shall be listed or rendered in the manner following:

(1) By the owner. Every person of full age and sound mind, being a resident of this State, shall list all of his real estate, moneys, credits, bonds or stock of joint stock or other companies (when the property of such company is not assessed in this State), moneys loaned or invested, annuities, franchises, royalties, and all other property.

(2) As agent. He shall also list all lands or other real estate, moneys and other personal property invested, loaned or otherwise controlled by him as agent or attorney, or on account of any other person, company, or corporation, whatsoever, and all moneys deposited subject to his order, check, or drafts and credits due from or owing by any person, body corporate or politic.

(3) Minor. The property of a minor child shall be listed by his guardian, or by the person having such property in charge.

(4) Wife. The property of a wife, by her husband, if of sound mind; if not, by herself.

(5) Idiot. The property of any idiot or lunatic, by the person having charge of such property.

(6) Cestui que trust. The property of a person for whose benefit it is held in trust by the trustee of the estate; of a deceased person, by the executor or administrator.

(7) Receivers. The property of corporations whose assets are in the hands of receivers, by such receivers.

(8) Corporations. The property of a body politic or corporate, by the president or proper agent or officer thereof.

(9) Co-partnership. The property of a firm or company, by a partner or agent thereof.

(10) Manufactories. The property of manufacturers and others in the hands of an agent, by such agent, in the name of his principal, as real, personal and merchandise. [As amended Acts 1937, 45th Leg., H.B. # 610, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

The title to Acts 1937, 45th Leg., H.B. # 610 purported to repeal section 11 of this article as it appeared prior to amendment of 1937, but the body of the Act did not contain a repealing clause. However, the body of the Act amended this article so as to omit subdivision 11.

Art. 7155a. Local option elections in certain counties respecting annual tax for Domestic Livestock Protective Fund

Section 1. In all counties in this State having ten thousand (10,000) or more cattle, sheep, and goats rendered for taxation, the qualified voters of such county may, as hereinafter provided, employ additional assistance to the law enforcement officers of such county as hereinafter provided.

Upon the petition of ten (10) per cent of the qualified voters of such county, presented to the Commissioners Court in open Regular Session, requesting such Court to order an election to be held in such county to determine whether or not said Court, when acting as a Board of Equalization in such county, shall levy, and cause to be assessed and collected an annual tax not to exceed one (1) cent per head on all sheep and goats and not to exceed five (5) cents per head on all cattle, within such county; said Court shall order such election to be held within such county, in accordance with the petition therefor; and said Court shall forthwith order such election to be held in the voting places within such county, upon a day not less than ten (10), nor more than twenty (20) days, from the date of said order and the order thus made, shall express the object of such election and shall be held to be prima facie evidence that all the provisions necessary to give it validity have been duly complied with; and provided further that such Court shall appoint such officers to hold such election as is now required to hold general elections. The expenses of such election shall be borne by the county wherein such

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election is ordered and held. In such election so held, the ballot shall read as follows:

"For the levy, assessment, and collection of an annual tax on cattle, sheep, and goats."

"Against the levy, assessment, and collection of an annual tax on cattle, sheep, and goats."

Returns of such election shall be made by the presiding officer of the precincts of such county where such election is held, to the County Judge of said county, who shall forthwith call the Commissioners Court together for the purpose of canvassing the returns; and if it shall be found by the Commissioners Court, upon a canvass of such returns, that a majority of the qualified voters of the county wherein such election is held, is in favor of the levy, assessment, and collection of the annual tax on sheep and goats of not more than one (1) cent per head and on cattle not more than five (5) cents per head, then said Court shall forthwith declare the results of said election and give public notice thereof by proclamation of said Court to be issued and posted at three (3) public places of the county in which such election is held; and shall thereafter, at the next succeeding meeting of said Court acting as the Board of Equalization for such county, levy and cause to be assessed and collected by the Assessor and Collector of Taxes for such county, not more than one (1) cent per head on all sheep and goats and not more than five (5) cents per head on all cattle within such county, on the 1st day of January preceding the date of such meeting.

Tax moneys to be deposited in Domestic Livestock Protective Fund

Sec. 2. All moneys assessed and collected by the Assessor and Collector of Taxes for each county of this State as provided for in Section 1 hereof, shall be paid by said Collector unto the County Treasurer of such County, and said Treasurer shall deposit said moneys to a fund to be known as "The Domestic Livestock Protective Fund," and such moneys shall never be expended for any other purpose than is herein provided.

Employment of enforcement officers by Commissioners Court; compensation; duties; reports

Sec. 3. To aid in the enforcement of all the Penal Laws of this State and in ferreting out and detecting any violation thereof, it shall be the duty of the Commissioners Court of such county adopting the provisions hereof, and they are hereby authorized and required to employ for such service, in addition to the officers now provided for by law, as many other competent and discreet persons as, in the judgment of said Court, is deemed necessary for said purposes, and shall fix their compensation; provided however, no such person, or persons, shall be paid in excess of Five Dollars (\$5) per day, while in actual service; and provided further that at no time, shall the moneys expended in the payment of such person, or persons, for such services, exceed the amount of money collected therefor. Such Court shall designate the duties to be performed by all such persons and shall require them to make monthly reports in writing to said Court as to the manner in which they have performed such duties. [Acts 1937, 45th Leg., H.B. # 113.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for a local option election in counties having ten thousand (10,-

000) or more cattle, sheep, and goats rendered for taxation to determine whether or not the qualified voters of such county desire to authorize the levy, assessment, and collection of an annual tax on cattle, sheep, and goats; providing for the method of levying, assessing, and collecting such annual tax; and further providing for the deposit of the moneys collected from

such annual tax in a special fund to be known as "The Domestic Livestock Protective Fund"; providing authority and requiring the Commissioners Court of such county adopting the provisions of this Act to

employ additional law enforcement officers, and fixing the compensation of such officers and the reports to be filed by them, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #113.]

Art. 7164a. Address of owner required to be given on rendering real or other property for taxation

That hereafter in all counties in the State of Texas containing a population of not less than ten thousand, nine hundred and seventy (10,970), nor more than ten thousand, nine hundred and ninety (10,990); according to the last preceding Federal Census, anyone owning real estate or other taxable property situated in said county on rendering the same for taxation to the County Tax Assessor and Collector for assessment for State and County ad valorem taxes shall render the same in the name of the owner thereof giving his correct post-office address at the time of such rendition, and if any representative or agent on and in behalf of said owner or owners shall render the same for taxation, said agent or representative shall likewise render the same in the name of the true owner of the said property giving the owner's or owners' correct post-office address at the time of said rendition. [Acts 1937, 45th Leg., H.B. # 105, § 1.]

Effective May 22, 1937.

Section 2 of this act is Penal Code, art. 141f. Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act requiring owners of real estate or other taxable property in certain coun-

ties, or their agents or representatives, in rendering same for ad valorem taxation to give the post-office address of the owner or owners of said property at the time of such rendition; providing a penalty for failure to render such property in the manner herein prescribed; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #105.]

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art. 7256. Office at county seat; deputy Assessors and Collectors of Taxes in certain towns and cities; bonds; compensation

Each Assessor and Collector of Taxes shall keep his office at the county seat of his county; and it shall be the duty of every person who failed to attend and to pay his taxes at the times and places in his precinct named by the Assessor and Collector of Taxes, as provided in the preceding Article, to call at the office of the Assessor and Collector of Taxes and pay the same before the last day of December of the same year for which the assessment is made; provided, however, that in all counties containing a city or town, other than the county seat, which has in excess of seven thousand (7,000) inhabitants according to the last Federal Census, said Assessor and Collector of Taxes, with the consent and approval of the Commissioners' Court, may appoint a Deputy Assessor and Collector of Taxes in such town or city, who shall have the right to collect taxes from all persons who desire to pay their taxes to him, and to issue a valid receipt therefor. Such Deputy shall enter into such bond, payable to the County Judge of the County as the Assessor and Collector of Taxes and Commissioners' Court of the county may require. From each person from whom said Deputy may collect taxes and issue a receipt therefor, said Deputy is authorized to receive a fee of not exceeding twenty-five (25¢) cents when receipt issued covers property taxes, and he shall receive no other compensation for his services; and further provided he shall not retain more than One Thousand Two

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Hundred (\$1,200.00) Dollars for any one calendar year, and the balance, if any, shall be deposited to the credit of the General Fund of the county. The Assessor and Collector of Taxes shall remain liable on his bonds for all taxes collected by such Deputy and nothing herein shall be construed as a limitation on the liability of the bonds of either the Assessor and Collector of Taxes or such Deputy. Provided further that in all counties having a population of more than seventy thousand (70,000), according to the last preceding Federal Census, and containing one or more cities or towns, other than the county seat, each of which has in excess of one thousand (1,000) inhabitants, according to the last Federal Census, said Assessor and Collector of Taxes with the consent and approval of the Commissioners' Court may appoint a Deputy Assessor and Collector of Taxes in each such city or town, who shall have the right to collect taxes from all persons who desire to pay taxes to him and to issue a valid receipt therefor; each such Deputy shall enter into such bond, payable to the County Judge of the county as the Assessor and Collector of Taxes and Commissioners' Court of the county may require. The salary of each such Deputy Assessor and Collector of Taxes shall be fixed by the Commissioners' Court, and each such Deputy Assessor and Collector of Taxes shall be subject to all the terms and provisions of the law relating to Deputy Assessors and Collectors of Taxes, providing that the salaries fixed by the Commissioners' Court for such Deputies provided for herein, in such counties, shall not exceed Two Hundred (\$200.00) Dollars annually for each one thousand (1,000) population, according to the last preceding Federal Census in each of such cities or towns, and further provided that the salary of either of such Deputy Assessor and Collector of Taxes shall not exceed One Thousand Two Hundred (\$1,200.00) Dollars per year. The Assessor and Collector of Taxes shall remain liable on his bonds for all taxes collected by such Deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the Assessor and Collector of Taxes or such Deputy. [As amended Acts 1933, 43rd Leg., 1st C.S., p. 50, ch. 16, § 1; Acts 1937, 45th Leg., S.B. # 282, § 1.]

Effective March 31, 1937.

agency and provided that the Act should take effect from and after its passage.

Section 2 of this Act declared an emer-

Art. 7261. [7619] [5168] [4743] Duties of clerk and collector

1. The Tax Collector shall at the end of each month make like reports to the Commissioners Court of all the collections made for the county, conforming as far as applicable and in like manner to the requirements as to the collection and report of taxes collected for the State. The County Clerk shall likewise, within two (2) days after the presentation of said report by the Collector, examine said report and stubs and certify to their correctness as regards names, dates, and amounts; for which examination and certificate he shall be paid by the Collector Fifty (50) Cents each month, which amount shall be allowed to the Collector by the Commissioners Court; provided that in counties having a County Auditor the work mentioned in this paragraph shall be done by the County Auditor rather than the County Clerk.

2. The Clerk shall file said report intended for the Commissioners Court, together with the tax receipt stubs, in his office for the next regular-meeting of the Commissioners Court.

3. The Tax Collector shall immediately pay over to the County Treasurer all taxes collected for the county during said month, after reserving his commissions for collecting the same, and take receipts therefor, and file with the County Clerk.

4. At the next regular meeting of the Commissioners Court, the Tax Collector shall appear before said Court and make a summarized statement, showing the disposition of all moneys, both of the State and county, collected by him during the previous three (3) months. Said statement must show that all taxes due the State have been promptly remitted to the State Treasury at the end of each month, and all taxes due the county have been paid over promptly to the County Treasurer and shall file proper vouchers and receipts showing same.

5. The Commissioners Court shall examine such statement and vouchers, together with an itemized report and tax receipt stubs filed each month, and shall compare the same with the tax rolls and tax receipt stubs. If found correct in every particular, and if the Tax Collector has properly accounted for all taxes collected, as provided above, the Commissioners Court shall enter an order approving said report, and the order approving same shall be recorded in the minutes.

6. The Tax Collector shall finally adjust and settle his account with the Commissioners Court for the county taxes collected, at the same time and in the same manner as is provided in the foregoing Article in his settlement with the State. [As amended, Acts 1937, 45th Leg., H.B. # 1027, § 1.]

Effective June 9, 1937.

Section 2 of the amendatory Act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

CHAPTER TEN—DELINQUENT TAXES

<p>Art. 7345b. Suits for delinquent taxes by taxing units—"tax units" defined [New].</p>	<p>Art. 7345c. Partial payments of delinquent taxes [New].</p>
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Art. 7345b. Suits for delinquent taxes by taxing units—"tax units" defined

Section 1. For all purposes of this Act, the term "taxing units," shall include the State of Texas or any town, city or county in said State, or any corporation or district organized under the laws of the State with authority to levy and collect taxes.

Impleading other taxing units having tax claims; service on State and other taxing units; waiver of service; notice of suit

Sec. 2. In any suit hereafter brought by or in behalf of any taxing unit as above defined, for delinquent taxes levied against property by any such taxing unit, the plaintiff may implead as parties defendant any or all other taxing units having delinquent tax claims against such property, or any part thereof, and it shall be the duty of each defendant taxing unit, upon being served with citation as provided by law to appear in said cause and file its claim for delinquent taxes against such property, or any part thereof. It shall be sufficient service upon the State of Texas in any county in such suit to serve citation upon the County Tax Collector charged with the duty of collecting such delinquent taxes due the State and county against such property and it shall be sufficient service upon any other taxing unit to serve citation upon the officer charged with the duty of collecting the taxes of such taxing unit or upon the Mayor, President, or Chairman or the governing body of such taxing unit, or upon the Secretary of such taxing unit. Any taxing unit having any claim for delinquent taxes against such property may waive the issuance and service of citation upon it.

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It shall be mandatory upon any such taxing unit so filing such suit or suits, in all cases where all other taxing units are not impleaded to notify all such taxing units not so impleaded of the filing of such suit or suits, such notice to be given by depositing in the United States mail a registered letter addressed to such taxing unit or units giving the name or names of the plaintiff and defendants, the Court where filed, and a short description of the property involved in said suit so that such taxing units not impleaded may have the opportunity to intervene as herein provided.

Other parties on service of process

Sec. 3. All other proper persons, including all record lienholders, shall be parties defendant to such suit, and shall be served with process as herein provided, and other proceedings shall be had therein as provided by law in ordinary foreclosure suits in the District Courts of this State, except as herein otherwise provided.

(a) Where any defendant in such suit is a resident of the State of Texas and his residence is known to the Attorney filing said suit, process shall issue as provided in ordinary foreclosure suits in the District Courts of this State.

(b) Where any defendant in such suit is absent from the State or is a non-resident of the State, it shall be sufficient to serve said defendant with notice accompanied by a certified copy of plaintiff's petition as provided in Article 2037 of the 1925 Revised Statutes of the State of Texas, and it shall be sufficient to serve such notice in the manner provided in Article 2038 of the 1925 Revised Statutes of the State of Texas, or in the alternative, service may be had on such defendant by publication as provided in Section 3 (c) hereof.

(c) Where any defendant in such suit is non-resident of the State or where the owner or owners of said property be unknown, and the petition so recites, service by publication is hereby authorized upon such defendant party or owner, and where service is had by publication it shall be sufficient for the notice to be published to contain the number and style of the case, the court in which it is pending, the amount of the taxes due each party plaintiff and intervener, exclusive of interest, penalties and costs, and shall recite that all interest, penalties and costs allowed by law are included in the suit, a brief general description of the property, and a notification when to appear and defend the suit, which shall be the first day of the next term of the Court wherein the suit is filed, and such publication notice shall also contain, in substance, the recitations required by Section 4 of this Act, and it shall be sufficient for such publication notice to be signed by the Clerk and published in some newspaper published in the county in which the property is located one time a week for two consecutive weeks, and if there is no newspaper published in said county, then said publication may be made in a newspaper in an adjoining county. A maximum fee of Two and one-half ($2\frac{1}{2}\phi$) Cents per line (7 words to counter line) for each insertion may be taxed for publishing said notice. If the publication of such citation cannot be had for such fee, then service of the citation herein provided may be made by posting a copy at three different places in the county, one of which shall be at the courthouse door.

(d) Any process authorized by this Act may issue jointly in behalf of all taxing units who are plaintiffs and/or interveners in any suit.

Pleading and answering to claims filed

Sec. 4. Each party to such suit shall take notice of, and plead and answer to, all claims and pleadings then on file or thereafter filed in said

cause by all other parties therein, and the citation upon each defendant shall so recite.

Proof and finding of reasonable and fair value; "adjudged value," defined; burden of proof

Sec. 5. Upon the trial of said cause the Court shall hear evidence upon the reasonable fair value of the property, and shall incorporate in its judgment a finding of the reasonable fair value thereof, in bulk or in parcels, either or both, as the Court may deem proper, which reasonable fair value so found by the Court is hereafter sometimes styled "adjudged value", which "adjudged value" shall be the value as of the date of the trial and shall not necessarily be the value at the time the assessment of the taxes was made; provided, that the burden of proof shall be on the owner or owners of such property in establishing the "fair value" or adjudged value as provided in this section and, provided further that this section shall only apply to taxes which are delinquent for the year 1935 and prior years.

Costs and expenses; approval by court

Sec. 6. All court costs, including costs of serving process, in any suit hereafter brought by or in behalf of any taxing units for delinquent taxes in which suits all other taxing units having a delinquent tax claim against such property of any part thereof, have been impleaded, together with all expenses of foreclosure sale and such reasonable attorney's fees as may be incurred by the interpleaded or intervening taxing units, not exceeding ten per cent (10%) of the amount sued for, such attorney's fees to be subject to the approval of the court together with such reasonable expenses as the taxing units may incur in procuring data and information as to the name, identity and location of necessary parties and in procuring necessary legal descriptions of the property, shall be chargeable as court costs.

Order of sale on foreclosure; sale

Sec. 7. In the case of foreclosure, an order of sale shall issue, and, except as herein otherwise provided, the land shall be sold thereunder as in other cases of foreclosure of tax liens.

Sale for less than adjudged value or aggregate of judgments in suit to party other than taxing unit prohibited; distribution of proceeds

Sec. 8. No property sold for taxes under decree in such suit shall be sold to the owner of said property, directly or indirectly, or to anyone having an interest therein, or to any party other than a taxing unit which is a party to the suit, for less than the amount of the adjudged value aforesaid of said property or the aggregate amount of the judgments against the property in said suit, whichever is lower, and the net proceeds of any sale of such property made under decree of court in said suit to any party other than any such taxing unit shall belong and be distributed to all taxing units which are parties to the suit which by the judgment in said suit have been found to have tax liens against such property, pro rata and in proportion to the amounts of their respective tax liens as established in said judgment, but any excess in the proceeds of sale over and above the amount necessary to defray the costs of suit and sale and other expenses hereinabove made chargeable against such proceeds, and to fully discharge the judgments against said property, shall be paid to the parties legally entitled to such excess.

Purchasing taxing unit to hold property for itself and other taxing units adjudged to have liens; sale by purchasing taxing unit; proceeds; failure to sell within 12 months

Sec. 9. If the property be sold to any taxing unit which is a party to the judgment under decree of court in said suit, the title to said property shall be bid in and held by the taxing unit purchasing same for the use and benefit of itself and all other taxing units which are parties to the suit and which have been adjudged in said suit to have tax liens against such property, pro rata and in proportion to the amount of the tax liens in favor of said respective taxing units as established by the judgment in said suit, and costs and expenses shall not be payable until sale by such taxing unit so purchasing same, and such property shall not be sold by the taxing unit purchasing same for less than the adjudged value thereof or the amount of the judgments against the property in said suit, whichever is lower, without the written consent of all taxing units which in said judgment have been found to have tax liens against such property; and when such property is sold by the taxing unit purchasing same, the proceeds thereof shall be received by it for account of itself and all other said taxing units adjudged in said suit to have a tax lien against such property, and after paying all costs and expenses, shall be distributed among such taxing units pro rata and in proportion to the amount of their tax liens against such property as established in said judgment. Consent in behalf of the State of Texas under this Section of this Act may be given by the County Tax Collector of the county in which the property is located.

Provided that if sale has not been made by such purchasing taxing unit before six months after the redemption period provided in Section 12 hereof has expired, it shall thereafter be the duty of the Sheriff upon written request from any taxing unit who has obtained a judgment in said suit, to sell said property at public outcry to the highest bidder for cash at the principal entrance of the courthouse in the county wherein the land lies, after giving notice of sale in the manner now prescribed for sale of real estate under execution. Said notice shall contain a legal description of the land to be sold, the date of its purchase by such purchasing taxing unit, the price for which the land was sold to such taxing unit, that it will be sold at public outcry to the highest bidder for cash, and the date and place of sale. All sales contemplated herein shall be made in the manner prescribed for the sale of real estate under execution, except that they must be made between the hours of 2 o'clock P. M. and 4 o'clock P. M., and the Sheriff is hereby authorized, and it is hereby made his duty, to reject any and all bids for said land when in his judgment the amount bid is insufficient or inadequate, and in the event said bid or bids are received, the land shall be readvertised and offered for sale as provided for herein, but the acceptance by the Sheriff of the bid shall be conclusive and binding on the question of the sufficiency of the bid and no action shall be sustained in any Court of this State to set aside said sale on the grounds of the insufficiency of the amount bid and accepted. Nothing herein shall be construed as prohibiting any taxing unit participating in said judgment, from instituting an action to set aside the said sale on the grounds of fraud or collusion between the officer making the sale and the purchaser. The Sheriff shall apply the proceeds from such sale, first, to the payment of all costs in said unit and all costs and expenses of sale and resale and all attorney's fees and reasonable expenses taxed as costs by the Court in said suit and shall distribute the balance among the taxing units participating in said original

judgment pro rata and in proportion to the amount of their tax liens against such property as established in said judgment.

Title of purchaser

Sec. 10. The purchaser of property sold for taxes in such foreclosure suit shall take title free and clear of all liens and claims for taxes against such property delinquent at the time of judgment in said suit to any taxing unit which was a party to said suit or which had been served with citation in said suit as required by this Act.

Suits entitled to precedence

Sec. 11. Suits for delinquent taxes shall have precedence and priority in the District Courts of this State, and in the Appellate Courts thereof.

Judgment; redemption, right to

Sec. 12. In all suits heretofore or hereafter filed to collect delinquent taxes against property, judgment in said suit shall provide for issuance of writ of possession within twenty (20) days after the period of redemption shall have expired to the purchaser at foreclosure sale or his assigns; but whenever land is sold under judgment in such suit for taxes, the owner of such property, or anyone having an interest therein, or their heirs, assigns or legal representatives, may, within two (2) years from the date of such sale, have the right to redeem said property on the following basis, to-wit: (1) within the first year of the redemption period, upon the payment of the amount bid for the property by the purchaser at such sale, including a One (\$1.00) Dollar tax deed recording fee and all taxes, penalties, interest and costs thereafter paid thereon, plus twenty-five per cent (25%) of the aggregate total; (2) within the last year of the redemption period, upon the payment of the amount bid for the property by the purchaser at such sale, including a One (\$1.00) Dollar tax deed recording fee and all taxes, penalties, interest and costs thereafter paid thereon, plus fifty per cent (50%) of the aggregate total.

In addition to redeeming direct from the purchaser as aforesaid, redemption may also be made upon the basis hereinabove defined, as provided in Articles 7284 and 7285 of the Revised Civil Statutes of Texas of 1925.

Provisions of Act cumulative; effect of conflict with other acts

Sec. 13. The provisions of this Act shall be cumulative of and in addition to all other rights and remedies to which any taxing unit may be entitled, but as to any proceeding brought under this Act, if any part or portion of this Act be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall govern as to such proceeding. The provisions of Chapter 10, Title 122 of the Revised Civil Statutes of 1925 shall govern suits brought under this Act except as herein provided. [Acts 1937, 45th Leg., S.B. # 477.]

Effective May 13, 1937.

Section 14 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining the term "taxing unit," and providing that in any suit brought by, or in behalf of, any taxing unit for delinquent taxes other taxing units having delinquent tax claims against the property, may be impleaded or may intervene; and providing for the nature, character and

contents of citation upon defendants, and service thereof; and providing for the adjudication of the reasonable fair value of the property; and providing for court costs, expenses of sale and expenses in procuring necessary data and information for filing such suits; and providing for procedure in such suits; and providing for citation and service upon absent, non-resident and unknown defendants; and providing for publication notice; and providing that if property be sold under decree in such a suit to any taxing unit which is a party

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

to said suit, title to same shall be bid in and held by the taxing unit purchasing same for the use and benefit of itself and all other taxing units in said suit, in proportion to the amount of tax liens held by said taxing units against such property as established by judgment in said suit; and providing the manner and price at which such property may be sold by the taxing unit purchasing same; and providing for the manner of distributing the proceeds of such property when sold; and providing the manner and price at which property may be sold for taxes under decree in such suit to the owner, directly or indirectly, or to anyone having an interest therein, or to any party other than a taxing unit which is a party thereto; providing for the distribution of the proceeds of such sale; and providing that the purchaser of property sold for taxes in such suit should take title clear of all liens or

claims for taxes delinquent at the time of judgment and belonging to any taxing unit which was a party to said suit or had been served therein; and providing for precedence and priority of such delinquent tax suits in the District and Appellate Courts; and providing for issuance of writ of possession and redemption of property sold for taxes; and in case the governing body of any taxing unit shall fail within sixty (60) days after taxes became delinquent to sue for collection, and in case such delinquent taxes were levied to meet requirements of outstanding obligations of such taxing unit, providing certain remedies for holders of such obligations; and providing that if any part or portion of the Act be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall govern; and declaring an emergency. [Acts 1937, 45th Leg., S.E. #477.]

Art. 7345c. Partial payments of delinquent taxes

Section 1. On and after July 1, 1937, taxpayers owing delinquent State and county taxes, covering both real estate and personal property, shall be permitted to pay such delinquent taxes in partial payments under a system which shall be hereinafter provided for.

Partial payment or installment account system to be created

Sec. 2. The Assessor and Collector of Taxes of each county of this State shall create and establish a partial payment or installment account system whereby all delinquent taxpayers desiring to pay their taxes under the provisions of this Act may do so.

Number of installments; time of payment

Sec. 3. All payments received by the Assessor and Collector of Taxes under the provisions of this Act shall be due and payable within twenty (20) months from the date of July 1, 1937, such payments being due and payable in ten (10) equal installments, provided that the first payment of such partial payments shall be made on or before September 1, 1937.

Default in paying installments; suit for collection

Sec. 4. If after paying one or more installments, the delinquent taxpayer pays no further installment or installments for a period of four (4) months, all of the remaining installments of said delinquent taxes shall become due and payable, and it will thereupon become the duty of the County Attorney or District Attorney or Criminal District Attorney in counties where there is no County Attorney to institute suit for the collection thereof.

Minimum payments and accounts

Sec. 5. The Assessor and Collector of Taxes shall accept partial payments made by a taxpayer in any sum, provided, however, that no payment shall be less than One Dollar (\$1), and that no partial payment account will be opened for delinquent taxes which total less than Ten Dollars (\$10).

Application of payments; redemption receipts

Sec. 6. When any delinquent taxpayer shall have paid into such installment account a sum of money sufficient to pay the taxes owed by

him for the earliest unpaid year upon one of the lots or tracts of land owned by him, together with the amount of penalty and interest then provided by law, the Assessor and Collector of Taxes shall withdraw from the special fund hereinafter provided for such sum and shall apply the same upon payment of said delinquent taxes, penalty, and interest, if any, and issue to such taxpayer a redemption receipt therefor. Thereafter such taxpayer may continue to make equal monthly installments into such trust fund until all of the delinquent taxes owed by him shall have been paid.

Title to payments

Sec. 7. All of such installments paid by such delinquent taxpayers shall immediately become the property of the State of Texas and the respective county wherein the assessed property is situated or located, in such proportion as is necessary to satisfy the taxes, penalty, and interest delinquent and due to each, and the taxpayer shall in no event be entitled to a refund thereof, or to any portion of the same.

Sale of property

Sec. 8. In the event the taxpayer for whom the installment or partial payment account was originally opened sells the particular property upon which said installments are to be applied, the Assessor and Collector of Taxes may, in his discretion, immediately apply upon the taxes, penalty, and interest delinquent upon such property, the amount of installments already received.

Payments to be in escrow

Sec. 9. All funds or moneys covering delinquent State and County taxes, received by the Assessor and Collector of Taxes under the provisions of this Act shall immediately be placed in a special account with the County Treasurer of the respective county involved, and shall be held in escrow in such account until such time as the Assessor and Collector of Taxes shall notify said County Treasurer that at least one year's taxes have been paid on an individual account, thereby permitting said County Treasurer to remit to the Assessor and Collector of Taxes the amount or amounts so specified, said funds then to be distributed to the State and county proportionately in the same manner as all other collections.

Books, records, and accounts subject to examination

Sec. 10. The books, records, and accounts maintained by the Assessor and Collector of Taxes for the purpose of carrying out the provisions of this Act shall at all reasonable times be subject to examination by the State Comptroller of Public Accounts and the respective County Auditors in their official capacity, in the same manner as all other collection systems now provided for by law.

Act inapplicable to certain taxes

Sec. 11. The provisions of this bill shall not apply to ad valorem or personal property taxes of any city, town, or independent school district, or any political subdivision of the State, unless and until the governing body thereof shall pass an ordinance or resolution providing that the provisions of this bill shall apply to ad valorem taxes of such city, town, or independent school district, or any political subdivision of the State.

Comptroller of Public Accounts to prescribe forms

Sec. 12. The Comptroller of Public Accounts shall prescribe suitable forms to be used by the Assessor and Collector of Taxes for noting thereon the payment of taxes in installments. He shall also prescribe suitable forms for passbooks, receipts, reports, and for any other purpose necessary in carrying out the provisions of this Act.

Pending suits unaffected

Sec. 12-a. The provisions of this Act shall not affect any delinquent tax suits filed in courts of competent jurisdiction before the effective date of this Act in the counties or other political subdivisions availing themselves of the provisions of this Act.

Repeal of conflicting laws

Sec. 13. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed in so far as the same are in conflict with the provisions hereof.

Partial invalidity

Sec. 14. It is further provided that in case any section, clause, sentence, paragraph, or part of this Act shall for any purpose or reason be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered. [Acts 1937, 45th Leg., H.B. # 456.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 15 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that on and after July 1, 1937, delinquent taxpayers shall be permitted to pay such taxes in partial payments; providing for the creation and establishment of a system whereby such payments may be made in this manner; providing for a twenty-month time limit in the payment of delinquent taxes under this system and that the first payment shall be made on or before September 1, 1937; providing for the institution of suit by the County Attorney or District Attorney or Criminal District Attorney in counties where there is no County Attorney against such delinquent taxpayers upon default in making such payments under this system; providing that no such payments shall be received by the Assessor and Collector of Taxes, which payments total less than One Dollar (\$1), and further, that accounts for less than Ten Dollars (\$10) will not be opened; providing that when the sum of money sufficient to pay the earliest unpaid year of delinquent taxes owed by such taxpayer shall have been paid, such amount shall then be applied upon such taxes, and a redemption receipt issued therefor; providing that all of the funds received

under the provisions of this Act shall immediately become the property of the State of Texas and the respective county involved, and that no refunds shall be allowed; providing that the Assessor and Collector of Taxes may, in his discretion, allow the amount or amounts already paid into such partial payment account to be applied upon such taxes in the event the property covered is sold or transferred; providing for the creation of a special account with the County Treasurer of the respective counties, in which funds obtained under this system may be deposited until sufficient amount is collected, to pay at least one year's taxes, at which time such amount shall be remitted by the County Treasurer to the Assessor and Collector of Taxes for proportionate distribution in the regular manner as provided by law; providing that the books, records, and accounts maintained by the Assessor and Collector of Taxes for the purpose of carrying out the provisions of this Act shall be subject to examination by the State Comptroller of Public Accounts and also by the County Auditor; providing for the manner by which said provisions would apply to cities, towns, and independent school districts, or any political subdivision of the State; prescribing suitable forms, etc., to be used in carrying out the provisions of this Act; providing the provisions of this Act shall not affect any delinquent tax suits filed in courts of competent jurisdiction before

the effective date of this Act; repealing all laws and parts of laws in conflict; providing that if any clause, section, sentence, paragraph, or part of this Act shall be

held invalid, such invalidity shall not invalidate the remainder; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #456.]

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS

Art.

7807i. Districts of not less than 10,000 nor more than 15,000 acres authorized to levy tax for expenses and claims [New].

7807j. Validation of organization and bonds of districts in counties of 48,500 to 48,600 population [New].

Art.

7807k. Validating organization on bonds of water improvement districts in water power districts; suit to validate bonds authorized [New].

Art. 7807i. Districts of not less than 10,000 nor more than 15,000 acres authorized to levy tax for expenses and claims

Sec. 1. Any Water Improvement District heretofore created and organized under Chapter 2 of Title 128 of the Revised Civil Statutes of the State of Texas having a present combined acreage within the limits of said District of not less than 10,000 acres, and not more than 15,000 acres, when circumstanced as stated in Section 2 of this Act, is hereby authorized and empowered to levy, assess and collect an annual tax on the taxable properties situated within the boundaries of such District, in order to raise funds reasonably sufficient to pay for necessary repairs to its properties, and to maintain and protect same, and to meet any reasonable and necessary contingent or legal expense incurred in behalf of such District, including valid and legal claims against such District for damages to the property of any other person or corporation, provided such tax shall not exceed Ten (10¢) Cents on the One Hundred (\$100.00) Dollars valuation of such property for any one year.

Prerequisites to authority to tax; termination of authority

Sec. 2. The authority to levy, assess and collect such taxes conferred by Section 1 of this Act is to be exercised only when any such District has legally authorized the issuance, and has issued its bonds or other lawful evidence of indebtedness, and has sold a portion of its bonds or other evidences of indebtedness, and with the money thus obtained has constructed a dam across some stream and impounded the waters thereof, and has thereby created a reservoir and secured its water supply, but has not constructed any canal, canals or other means for the diversion of water from such reservoir for irrigation purposes, and is unable to sell sufficient of its other bonds at a price permitted by law, to raise money to construct such necessary canal or canals, and has not sufficient available revenues from any other source which it can lawfully apply to the purposes and uses mentioned in Section 1 of this Act; and the authority conferred by this Act to raise funds by taxation to meet such expenses and demands as are mentioned in Section 1 of this Act shall cease whenever sufficient funds legally applicable to such uses and purposes are otherwise reasonably available.

Assessments and taxes validated; exception

Sec. 3. All levies and assessments of taxes made since the year 1931 for any of the purposes mentioned in Section 1 of this Act, by any Water Improvement District as defined in Section 1 of this Act, and circumstanced as set out in Section 2 of this Act, are hereby declared to be, and are hereby made valid and legal for all purposes, the same as if the authority to levy, assess and collect such taxes had been expressly conferred upon such Districts prior to the time when such levies and assessments were made; provided, however, that this Act does not undertake to make valid and lawful, and does not make valid and lawful any such levy or assessment in any instance when such levy and assessment has exceeded the sum of Twenty (20¢) Cents on the One Hundred (\$100.00) Dollars valuation of such property in any one year.

Existing taxing power not affected

Sec. 4. Nothing herein contained shall be construed as taking away or limiting any power under any existing law to levy and collect any of the taxes hereinabove referred to, if such power does in fact exist. [Acts 1937, 45th Leg., S.B. #80.]

Art. 7807j. Validation of organization and bonds of districts in counties of 48,500 to 48,600 population

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified taxpaying voters of any water control and improvement district or any water improvement district of this State, which bonds have not been sold, and which were authorized for the purpose of financing or aiding in the financing of any work, undertaking, or project, or for refinancing its indebtedness by any such district to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works or through any instrumentality or agency of the United States of America for the purpose of financing or aiding in the financing of such work, undertaking, or project, or for refinancing its indebtedness, including all proceedings for the calling and holding of elections and the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, and such bonds shall be, when sold for not less than par and accrued interest, binding, legal, valid, and enforceable obligations of such district in counties of not less than forty-eight thousand, five hundred (48,500) and not more than forty-eight thousand, six hundred (48,600) population, according to the last preceding Federal Census.

Water control and improvement districts and water improvement districts validated

Sec. 1-a. That all water control and improvement districts and water improvement districts, whether created or attempted to be created by the Commissioners Court or the State Board of Water Engineers, and heretofore laid out and established or attempted to be established, are hereby ratified, validated, and confirmed in all respects as though they had been duly and legally established in the first instance.

Proceedings for financing work or projects validated

Sec. 2. All proceedings which have been taken prior to the date this Act takes effect, for the purpose of financing or aiding in the financing of any work, undertaking, or project by any such district to which

any loan or grant is under contract to be made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking, or project, including all proceedings for the authorization and issuance of bonds and for the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed.

Act inapplicable to district whose organization or bonds are in litigation

Sec. 3. The provisions of this Act shall not apply to the creation of any such district or any obligations issued thereby, where the validity of such district or its obligations are now in litigation. [Acts 1937, 45th Leg., H.B. #1164.]

Art. 7807k. Validating organization on bonds of water improvement districts in water power districts; suit to validate bonds authorized

Section 1. Water improvement districts situated within a water power control district and which have been heretofore declared to have been organized and established by order of a County Commissioners' Court under the terms and provisions of Section 29 of Chapter 76,¹ Acts of the Forty-third Legislature and of Chapter 19,² page 54, Acts of 1933, First Called Session of the Forty-third Legislature, and the organization of which the County Commissioners' Court found that petitions for the organization thereof had been filed and notice thereof had been given and that the organization of such districts was feasible and practicable and that it was needed, and would be of public benefit and benefit to the lands included in the districts and had caused such findings to be entered of record are hereby found and declared to have been legally created and the same are hereby validated and declared to have been validly created water improvement districts. The fact that by inadvertence or oversight any act of the officers of any county or other person in the creation of any district was not properly done shall in nowise invalidate such district, and all such districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

Sec. 2. All bonds authorized to be issued by such districts, the issuance of which had been authorized by an election held within such districts by an affirmative vote of two-thirds majority of those voting at such election, are hereby found and declared to have been legally authorized to be issued and the same are hereby validated and declared to have been legally authorized to be issued. The fact that by inadvertence or oversight any act of the officers of any districts or other person in the authorization of the issuance of such bonds was not properly done shall in nowise invalidate such bonds, and all such bonds are hereby validated in all respects as though they had been duly and legally authorized to be issued in the first instance.

Sec. 3. Such district may if they so elect validate such bonds by suit as provided by law; provided, however, if such districts herein named so elect it shall not be necessary to validate same by suit but in such event before any bonds are offered for sale, the district shall forward to the Attorney General a certified copy of the records of the organization of such district and the proceedings providing for the issuance of such bonds with such other information relating thereto as the Attorney General may require, and the Attorney General shall examine said records and said bonds, and if he shall find that they have been issued in conformity with the Constitution and laws of the State and that they are valid and binding obligations of said district he shall so officially certify, and such of-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

cial certificate shall authorize the registration of said bonds by the Comptroller of Public Accounts in the same manner as if same had been validated by suit.

Sec. 4. Provided, however, that nothing contained in this Act shall affect any pending litigation. [Acts 1937, 45th Leg., 1st C.S., S.B. #22.]

1 Article 7807d, § 79.

2 Articles 7807d, 7807dd.

Effective July 7, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the validation of the organization and establishment of water improvement districts situated within a water power control district organized under Section 29 of Chapter 76, Acts of the Forty-third Legislature, and of Chapter 19, page 54, Acts of 1933, First Called Session of the Forty-third Legislature; providing for the validation of bonds authorized to be issued by such districts which have been authorized by two-thirds

majority of those voting at such elections; providing for the validation of such bonds by suit as now provided by law if the districts so elect or by forwarding to the Attorney General a certified copy of the proceedings providing for the issuance of such bonds, the examination thereof by the Attorney General and the issuance of his official certificate that such bonds are valid and binding obligations of said district if he shall so find, and that such official certificate shall authorize the registration of said bonds by the Comptroller of Public Accounts in the same manner as if same had been validated by suit; provided, however, that nothing contained in this Act shall affect any pending litigation; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., S.B.# 22.]

CHAPTER 3A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.

7880—147v(1). Grant of easement in lands to facilitate operation of Lower Rio Grande Flood Control Project by United States [New].

Art. 7880—147u. Borrowing from Federal Agencies; bonds and taxes authorized

Sec. 1. Any water control and improvement district in this State is hereby expressly authorized and empowered to borrow money and to receive grants and other aid from the Government of the United States, from the Federal Emergency Administration of Public Works, the Reconstruction Finance Corporation, the Federal Reserve Banks, and any and all other agencies of the Government of the United States, which now are or hereafter may be authorized to make such loans or grants, and which loans or grants may be made on such terms and in such amounts as may be agreed upon between the Board of Directors of such districts and the Government, or any such lending agency. [As amended Acts 1936, 44th Leg., 3rd C.S., p. 2092, ch. 501, § 1.]

Art. 7880—147v(1). Grant of easement in lands to facilitate operation of Lower Rio Grande Flood Control Project by United States

Sec. 1. In order to facilitate the acquisition, operation and maintenance of the Lower Rio Grande Flood Control Project by the United States, pursuant to provisions of the Act of Congress approved August 19, 1935, (49 Stat. 660) and Acts amendatory thereof and supplementary thereto, and Acts 1934, Forty-third Legislature of Texas, Fourth Called Session, Page 71, Chapter 29,¹ there is hereby granted and conveyed to the United States of America: (1) the perpetual right and easement to enter and reenter in and upon the beds and banks of the Rio Grande in Cameron County and Hidalgo County for the purpose of constructing,

operating and maintaining suitable revetment and jetty works, retaining walls, levees, dikes, and embankments along and adjacent to the banks of the Rio Grande, and the right to construct, operate and maintain such anchors, cables and any other structures of whatsoever kind, in connection with the construction, operation and maintenance of the Lower Rio Grande Flood Control Project as may from time to time be deemed necessary by the engineers in charge of such Project, and (2) the perpetual right and easement to enter and reenter in and upon the beds and banks of the Arroyo Colorado in Cameron County, Willacy County and Hidalgo County for handling, flowing, carrying, diverting, confining, and controlling flood and drainage water or waters, together with the right to clear and grub said land, and maintain the same free of trees and brush and the right to construct, operate and maintain therein or thereon suitable channels, drainage ditches and structures, flood control and irrigation structures, or any other type or kind of structure, or excavation of any nature whatsoever, as may from time to time be deemed necessary by the engineers in charge of said work for the proper and efficient maintenance and operation of the Lower Rio Grande Flood Control Project.

Provided, however, that this grant and cession is made upon the express condition that the State of Texas shall retain concurrent jurisdiction with the United States of America over every portion of said lands so affected by this grant and cession so far that all process, civil and criminal, issuing under the authority of this State or any of the courts of judicial officers thereof may be executed by the proper officers of the State upon any person amenable to the same within the limits of the lands hereby affected, in like manner and with like effect as if this grant and cession had not taken place. Nothing in this Act shall be construed to be a cession or relinquishment of any rights which the State of Texas or citizens or owners of property therein may hold or possess in the waters of the Rio Grande or the Arroyo Colorado and in the use thereof and in the access thereto.

Sec. 2. If any section, clause or provision of this Act shall be held unconstitutional or otherwise invalid or unenforceable, such holding shall not have the effect of nullifying or in anywise affecting the remainder of this Act, and the parts of this Act not so held to be unconstitutional or invalid shall remain in full force and effect. [Acts 1937, 45th Leg., S.B. #222.]

¹ Article 7880—147v, ante.

CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS

3. POWERS OF DISTRICT

Art.

7930—2. Exclusion and annexation of lands in certain districts [New].

3. POWERS OF DISTRICT

Art. 7930—2. Exclusion and annexation of lands in certain districts

Sec. 1. Whenever there exists within the boundaries of any Fresh Water Supply District in this State territory to the extent of at least ten (10) acres contiguous and adjoining the lines of such District, the Board of Supervisors of such District may, before the issuance and sale of any bonds on the faith and credit of said District, and, before the

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

levy of any taxes for said District, by Resolution duly passed and adopted, discontinue such territory as a part of said District, in accordance with the provisions of this Act and the method herein and hereby prescribed:

(a) The Board of Supervisors of any such District shall have the power to adopt a Resolution excluding such territory, and which Resolution shall describe the territory proposed to be excluded by metes and bounds; provided, however, that such Resolution shall not become effective until after the issuance and publication of the notice of intention to adopt the same, as hereinafter prescribed, or the confirmation of such Resolution, at an election held in such District, if such election be ordered and held, as herein authorized;

(b) Notice of intention to adopt such Resolution, and which notice shall contain a full copy of the proposed Resolution, shall be published once a week for two consecutive weeks in a newspaper of general circulation within the County in which the District is situated, the date of the first publication to be at least fourteen (14) days prior to the date of the meeting of the Supervisors, and at which meeting it is proposed to adopt the Resolution excluding such territory from the District. At any time before the date fixed for the adoption of the proposed Resolution, excluding such territory, ten (10), or a majority, of the qualified voters of such District, who own land therein, may file a petition with the President or Secretary of the Board of Supervisors of the District, praying the Board of Supervisors to order an election for the purpose of submitting the proposition to exclude such territory from the District to a vote of the qualified voters of such District, who own land therein. Upon the filing of such petition, it shall be the duty of the Board of Supervisors of such District to order an election to be held in such District, to determine whether or not such territory shall be excluded. In the event no such petition is filed or presented to the President or Secretary of the Board of Supervisors within the time hereinabove prescribed, no election on the proposition shall be required, and such Board of Supervisors shall then have the power to finally pass and adopt the proposed Resolution to exclude such territory from the District; and a copy of such Resolution, signed by a majority of the members of the Board of Supervisors of such District, and duly attested by the Secretary of such Board, shall be filed and recorded in the Deed Records of the County in which the District is situated, and such territory shall be no longer a part of the District from and after the recording of the copy of such Resolution;

(c) Whenever any Fresh Water Supply District has authorized the issuance of any bonds, and the same have not been sold or put into circulation, and no tax levy has been made to pay the principal of and interest on such bonds, the exclusion of any territory from any such District, in conformity with the provisions of this Act, shall result in a cancellation of such authorized bonded indebtedness;

(d) It shall be the duty of the Board of Supervisors of any such District, within a reasonable time after the exclusion of such territory from such District, to adopt a Resolution re-defining the bounds and limits of such District, so that they shall show the exclusion of such territory; and when such Resolution has been duly passed, the Secretary of such District shall enter and record such Resolution in the minutes or records of such Board of Supervisors, and a certified copy of such Resolution shall be promptly filed in the office of the County Clerk of the County in which the District is situated, and such certified copy shall also be recorded in the Deed Records of such County.

Annexation of lands

Sec. 2. Defined areas of territory not embraced within a Fresh Water Supply District may be added to the area of any such District in the manner hereinafter provided, to-wit:

Petition for the annexation of such territory shall be signed by a majority of landowners therein, or by fifty (50) landowners, if the number of such landowners is more than fifty (50): Such petition shall be filed with the Secretary of the Board of Supervisors. It shall be the duty of the Board to pass an order fixing a time and place at which such petition shall be heard, which date shall be not less than thirty (30) days from the date of such order. The Secretary shall issue notice of such time and place of hearing, and which notice shall describe the territory proposed to be annexed. The Secretary shall execute said notice by posting copies thereof in three public places in the District, and one copy in a public place within the territory proposed to be annexed; said notices to be posted for fifteen (15) days prior to the date of said hearing. Publication of copy of such notice shall be made in a newspaper of general circulation in the County in which such District is situated, one time, and at least fifteen (15) days prior to such hearing. If, upon the hearing of such petition it is found that the proposed addition of such territory to the District is feasible and practicable, and would be of benefit both to such territory and to the District, then the Board, by Resolution duly entered upon its minutes, may receive such proposed territory as an addition to, and to become a part of, the District. Such Resolution need not include all of the land described in the petition, if upon the hearing a modification or change is found necessary or desirable; and a copy of such Resolution, signed by a majority of the members of the Board of Supervisors of such District, and duly attested by the Secretary of such Board, shall be filed and recorded in the Deed Records of the County in which the District is situated, and such territory shall be a component part of the District from and after the recording of the copy of such Resolution. The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted or authorized by said District to which it shall have been added; provided, however, that before the added territory shall be subject to any part of such indebtedness or taxes, the Board of Supervisors shall order that an election be held in said District, as enlarged or extended by reason of the annexation of such territory, on the question of the assumption of such indebtedness or taxes by said District, as so enlarged or extended.

Elections; notice

Sec. 3. Whenever an election is ordered to be held either for the purpose of confirming or approving the exclusion of any territory, or for the purpose of the assumption of indebtedness or taxes by reason of the annexation of any territory, as herein provided, then in either case such election shall be held and notice thereof given, as is provided in the case of the issuance of bonds by such Fresh Water Supply Districts.

Partial invalidity

Sec. 4. If any section, sentence, clause or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act. [Acts 1937, 45th Leg., S.B. #466.]

II. LEVEES

CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

1. ESTABLISHMENT

Art. 8017. Same; method to be pursued

(i). [Repealed by Acts 1937, 45th Leg., 1st C.S., H.B. #60, § 1.]

Effective 90 days after June 25, 1937,
date of adjournment.

III. DRAINAGE

CHAPTER SEVEN—DRAINAGE DISTRICTS

1. ESTABLISHMENT

Art.

8176a. Conversion of drainage district into conservation and reclamation district; orders of commissioners courts validated [New].

1. ESTABLISHMENT

Art. 8176a. Conversion of drainage district into conservation and reclamation district; orders of commissioners courts validated

Section 1. Wherever the Commissioners Court of any county has heretofore entered any order or orders converting or purporting to convert any drainage district wholly situated within such county from a drainage district, organized under the provisions of Section 52 of Article III of the Constitution of this State, into a conservation and reclamation district organized under Section 59 of Article XVI of said Constitution, such action and orders by such Commissioners Court are hereby in all respects validated, ratified, and confirmed. Any and all such drainage districts which have been the subject matter of any such order or orders, are hereby created and declared to be duly and legally created, organized, and functioning conservation and reclamation districts under the provisions of Section 59 of Article XVI of the Constitution of Texas, with all the rights, powers, and duties now or which may be hereafter conferred upon them by law.

Borrowing money from Reconstruction Corporation for specified purposes, authorized—taxation—sinking fund

Sec. 2. Any drainage district which is operating under the provisions of Section 59 of Article XVI of the Constitution of this State, subject to the provisions of Section 3 hereof, acting by and through the Commissioners Court of the county in which such district is situated, may borrow money from the Reconstruction Finance Corporation for the purpose of taking up and refunding any outstanding bonds and for the purpose of paying or securing funds to pay judgments heretofore or hereafter rendered against such District, and for the purpose of paying or to secure funds to pay warrants issued to pay judgments or to settle or compromise litigation, and for the purpose of paying any and all expenses reasonably necessary or incident to such refunding operations

and to evidence its indebtedness to such Reconstruction Finance Corporation, any such drainage district, acting through such Commissioners Court, may issue refunding bonds in such amount and denomination, bearing such rates of interest (not exceeding six (6) per cent per annum, payable annually or semiannually), and having such maturities (not exceeding forty (40) years from their date) as may be fixed in the order authorizing said refunding bonds. The Commissioners Court of such county shall levy a tax upon all property subject to taxation within such district sufficient in amount to pay the interest upon any such refunding bonds so issued, and to create a sinking fund sufficient to retire such bonds at maturity, as well as to pay the costs of collecting such tax.

Election on issuance of refunding bonds

Sec. 3. In instances wherein the indebtedness refunded includes obligations other than voted bonds, a majority of the resident property taxpaying voters of such district who vote at an election called for that purpose must vote in favor of the issuance of such refunding bonds and the levy of such tax in payment thereof before any such refunding bonds shall be issued. Such election shall be called by such Commissioners Court, and notice of the time and places of holding such election shall be given by the Clerk of said Court. The notice shall state the purpose of the election, the proposition to be voted upon, define the election precincts and prescribe the polling places (each of which shall be in the district), state the names of the officers of the election and shall be signed by such Clerk. The notice shall be published once each week for three (3) consecutive weeks in a newspaper of general circulation published in the county in which such drainage district is located, or if none is published therein, in the nearest county thereto. The first publication shall be at least twenty (20) days prior to the election. Said election shall be held in accordance with the provisions of the Constitution and General Election Laws, so far as applicable thereto, and only qualified electors who own taxable property in the district and who have duly rendered the same for taxation shall be qualified to vote, and all electors shall vote in the election precinct of their residence, as fixed for the purpose of said election.

Execution, registration, approval, and delivery of refunding bonds—cancellation of outstanding bonds

Sec. 4. If such election shall result in favor of the issuance of such refunding bonds and the levy of such tax in payment thereof, the Commissioners Court shall so declare and such bonds may thereafter be executed in the name of the district, signed by the County Judge, and attested by the County Clerk with the seal of the Commissioners Court affixed thereto, and shall be registered by the County Treasurer. Such refunding bonds together with the record pertaining thereto shall be submitted to the Attorney General and when approved by the Attorney General shall be delivered to the Comptroller of Public Accounts, and shall be registered by the Comptroller of Public Accounts and delivered by the Comptroller in exchange for or upon release of the obligations refunded thereby, the evidences of which obligations if evidenced by outstanding securities shall be canceled by the Comptroller of Public Accounts concurrently with the registration and delivery of the refunding bonds. The cancellation or release of outstanding obligations and the delivery of refunding bonds therefor shall be at the times and in the manner and amounts which may be prescribed by the order or orders of the Commissioners Court.

All such refunding bonds when approved by the Attorney General and registered and delivered by the Comptroller of Public Accounts as

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

aforesaid, shall be valid and binding obligations of such district and shall be incontestable for any cause from and after the time of such registration and delivery.

Adoption of provisions of statute by resolution of commissioners

Sec. 5. By resolution duly passed at a meeting of the Commissioners Court of any county in which is wholly located any drainage district or districts, and by resolution duly passed at a meeting of the commissioners of any such drainage district or districts, such county and drainage district or districts may adopt the provisions of this Section and from and after the adoption hereof by said Commissioners Court and by such drainage district or districts, any and all functions, powers, rights, and duties exercised by or pertaining to the commissioners of such drainage district or districts shall be transferred to, vest in, and be thereafter exercised by the Commissioners Court of the county within which said drainage district or districts are wholly situated. The Commissioners Court of said county shall thereafter be the sole governing body of such drainage district or districts with the powers, functions, rights, and duties aforesaid and the members of said Commissioners Court shall not be entitled to any compensation by reason thereof.

Partial invalidity

Sec. 6. If any of the provisions of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby. [Acts 1937, 45th Leg., 2nd C.S., H.B. #70.]

Effective Oct. 27, 1937.

Section 7 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act relating to drainage districts; validating all orders heretofore entered converting said drainage districts into districts operating under Section 59 of Article XVI of the Constitution and creating and declaring such districts to be legally existing; authorizing districts operating under such provisions of the Constitution to borrow money from the Reconstruction

Finance Corporation for refunding purposes and to issue refunding bonds and levy a tax in payment thereof; prescribing the method of issuing said refunding bonds; providing a method whereby the functions of drainage commissioners may be exercised by the Commissioners Court of the county wherein such drainage district is wholly situated; providing that if any of the provisions hereof are held to be invalid, such holding shall not affect the remaining provisions; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 70.]

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art.

8197f. Condemnation of cemeteries by conservation and reclamation districts and similar districts [New].

Art. 8194. Creation

The following laws, though passed as general laws, are in fact special acts relating to conservation districts or authority: Brazos River Conservation District amended Acts 1931, 42nd Leg., 1st. C.S., p. 8, ch. 5, § 1; Central Colorado River Authority, amended Acts 1937, 45th Leg., S.B. # 309, § 1; Comal County Water Recreational District No. 1, Acts 1937, 45th Leg.,

S.B. # 419; Harris County Flood Control District, Acts 1937, 45th Leg., H.B. # 1131; Lower Colorado River Authority, amended 1937, 45th Leg., S.B. # 497; Nueces River Conservation and Reclamation District, amended Acts 1937, 45th Leg., 2nd C.S., H. B. # 38; Panhandle Water Conservation Authority, Acts 1937, 45th Leg., S.B. # 386; San Antonio River Canal and Conservancy

District, Acts 1937, 45th Leg., H.B. # 726; San Jacinto River Conservation and Reclamation District, Acts 1937, 45th Leg., H.B. # 832; Upper Colorado River Authority,

amended Acts 1936, 44th Leg., 3rd C.S., p. 2099, ch. 505; Upper Red River Flood Control and Irrigation District, Acts 1937, 45th Leg., H.B. # 592.

Art. 8197f. Condemnation of cemeteries by conservation and reclamation districts and similar districts

Sec. 1. The use of lands for the construction of dams and the creation of lakes and reservoirs created by such dams constructed on the rivers and streams of the State of Texas by conservation and reclamation districts, and other public districts and bodies politic created for the purpose of the conservation and development of the natural resources of this State, including the controlling, storing, preservation, and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power, and all other useful purposes, under Section 59 of Article XVI of the Constitution of the State of Texas, is hereby declared to be superior to all other uses; and for such other purposes all such districts and bodies politic shall have the power and right of eminent domain for the purpose of acquiring by condemnation any and all land, real estate, improvements, and other property owned and held for cemeteries or burial places, necessary for the construction of any dam or lying within the area to be covered by any lake or reservoir to be created by the construction of any such dam, or within three hundred (300) feet of the high water line of any such lake or reservoir.

Procedure

Sec. 2. The procedure in any such condemnation proceeding shall be as provided by Title 52 of the Revised Civil Statutes of Texas, 1925, as amended; provided that the notice stipulated in Article 3264 shall be served on the owner of the title to the land on which such cemetery is situated, and in addition thereto, general notice to all persons having relatives interred in said cemetery shall be given by publication of such notice for two consecutive weeks in some newspaper published in the English language in the county in which such cemetery is situated, and if there be no such newspaper published in such county, then in a newspaper in the nearest county in which such newspaper is published; and provided further that in assessing damages the measure of damages for the land shall be assessed as in other cases, and there shall be assessed an additional amount of damages sufficient to provide for the expense of removal and reinterment of any body or bodies interred in any such cemetery or burial place, and the expense of removing and resetting any monuments or markers erected at such graves, which additional sum shall be deposited in the registry of the court and shall be disbursed only for the purpose of removing and reintering such body or bodies in such other cemetery within the State of Texas as may be agreed upon by the directors of such district and the relatives of the deceased person or persons, or in the event such agreement cannot within thirty days be made or no relatives appear to designate such cemetery, then in such cemetery as may be directed by the county judge of the county in which such proceedings are filed; or, in lieu of depositing such additional amount for the removal and reinterment of such body or bodies, the applicant for condemnation may give a bond in such amount as may be fixed by said county judge to cover such costs of removal and reinterment, said bond to be payable to and approved by the county judge, and conditioned that such body or bodies will be removed and reinterred as provided in this Article. [Acts 1937, 45th Leg., H.B. #130.]

TITLE 130—WORKMEN'S COMPENSATION LAW

PART 2

Art.
 8307b. Presumptions on appeal from
 Board; denial by verified plead-
 ing [New].

PART 1

Art. 8306. Damages and compensation for personal injuries

Sec. 7d. For representing the interest of any claimant in any manner carried from the board into the courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this law for an attorney's fee for such representation, not to exceed one-third (1/3) of the amount recovered, such fee for services so rendered to be fixed and allowed by the trial court in which such matter may be heard and determined.

In fixing and allowing such attorney's fees the court must take into consideration the benefit accruing to the beneficiary as a result of such services. No attorney's fees (other than the amount which the board may have approved) shall be allowed for representing a claimant in the trial court unless the court finds that benefits have accrued to the claimant by virtue of such representation, and then such attorney's fees may be allowed only on a basis of services performed and benefits accruing to the beneficiary. [As amended Acts 1937, 45th Leg., S.B., # 64, § 1.]

Amendment of 1937, effective 90 days
 after May 22, 1937, date of adjournment.

PART 2

Art. 8307. Industrial Accident Board

Sec. 5B. In computing the twenty (20) days for the filing with the Board notices of unwillingness to abide by the final ruling and decision of the Board, and likewise in computing the twenty (20) days to institute a suit to set aside the final ruling of said Board, if the last day is a legal holiday or is Sunday, then, and in such case, such last day shall not be counted, and the time shall be and the same is hereby extended so as to include the next succeeding business day; but this provision shall not extend to or include any cases now filed or now pending in the trial court or on appeal from the trial court; the rights of the parties in such suits now pending or on appeal from the trial courts shall be determined by the law existing prior to the passage of this Act. [As added Acts 1937, 45th Leg., 2nd C.S., H.B. #36, § 1.]

Effective Jan. 1, 1938.
 Section 2 of this Act declared an emergency and provided that the Act should
 take effect from and after Jan. 1, 1938.

Art. 8307b. Presumptions on appeal from Board; denial by verified pleadings

In the trial of any case, appealed to the court from the board the following, if plead, shall be presumed to be true as plead and have been done and filed in legal time and manner, unless denied by verified pleadings:

- (1) Notice of injury;
- (2) Claim for compensation;

- (3) Award of the board;
- (4) Notice of intention not to abide by the award of the board;
- (5) Filing of suit to set aside the award.

Such denial may be made in original or amended pleadings; but if in amended pleadings such must be filed not less than seven days before the case proceeds to trial. In case of such denial the things so denied shall not be presumed to be true, and if essential to the case of the party alleging them must be proved. [As added Acts 1937, 45th Leg., S.B. # 64, § 2.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 3 repeals all conflicting laws and

parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

PART 4

Art. 8309. Definitions and general provisions

Sec. 1.

"Employee" shall mean every person in the service of another under any contract of hire, expressed or implied, oral or written, except masters of or seamen on vessels engaged in interstate or foreign commerce, and except one whose employment is not in the usual course of the trade, business, profession or occupation of his employer; provided that an employee who is employed in the usual course of the trade, business, profession or occupation of an employer and who is temporarily directed or instructed by his employer to perform service outside of the usual course of trade, business, profession or occupation of his employer is also an employee while performing such services pursuant to such instructions or directions; and provided further that such persons, other than independent contractors and their employees, as may be engaged in the work of the employer of enlargement, construction, remodeling or repairing of the premises or buildings used or to be used in the conduct of the business of the employer shall be deemed employees. [As amended Acts 1937, 45th Leg., S.B. # 66, § 1.]

Amendment of 1937, effective May 5, 1937.

Section 2 of Act of 1937 is the emergency section. It reads as follows:

"Sec. 2. The inadequacy of the provisions of the Workmen's Compensation Law to compensate employees for injuries received while in the performance of certain work or acts unusual to their regular employment, but within the general scope and in furtherance, or in the interest, of the business, trade, profession or occupation of the employer (as illustrated by the deci-

sion of the Commission of Appeals, adopted by the Supreme Court, in *Texas Employers' Insurance Association vs. Wright*, 97 S.W.(2d) 171), creates an emergency and an imperative public necessity demanding the suspension of the Constitutional Rule requiring bills to be read on three several days in each House, and said Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

THE PENAL CODE

TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

CHAPTER FOUR—COLLECTION OF TAXES AND OTHER PUBLIC MONEY

Art.

141f. Failure to give address of owner
on rendering property for taxation
[New].

Art. 141f. Failure to give address of owner on rendering property for
taxation

Any person or persons failing to comply with any provision of this
Act shall be deemed guilty of a misdemeanor and upon conviction shall
be fined not less than One Dollar (\$1) nor more than Twenty-five Dol-
lars (\$25). [Acts 1937, 45th Leg., H.B. # 105, § 2.]

Effective May 22, 1937.

Section 1 of this act is published as Rev.
Civ.St. art. 7164a.

TITLE 7—RELIGION AND EDUCATION

CHAPTER THREE—TEACHERS AND SCHOOLS

Art.

301d. Fraternities, societies, and secret
societies prohibited in public
schools of certain counties [New].

Art. 301d. Fraternities, sororities, and secret societies prohibited in pub-
lic schools of certain counties

Section 1. In all counties of this State having a population of not
less than three hundred and twenty thousand (320,000) inhabitants
and not more than three hundred and fifty thousand (350,000) inhab-
itants according to the last Federal Census, a public school fraternity,
sorority, or secret society as used in this Act, is hereby defined to be
any organization composed wholly or in part of public school pupils,
which seeks to perpetuate itself by taking in additional members from
the pupils enrolled in such school on the basis of the decision of its
membership rather than upon the free choice of any pupil in the school
who is qualified by the rules of the school to fill the special aims of
the organization.

Organizations declared inimical to public good

Sec. 2. Any public school fraternity, sorority, or secret society, as defined in Section 1 of this Act, is hereby declared to be an organization inimical to the public good.

Suspension of expulsion of students; exceptions

Sec. 3. It shall be the duty of school directors, boards of education, school inspectors, and other corporate authority managing and controlling any of the public schools of this State, in the Counties within the provisions of this Act, to suspend or expel from the school under their control any pupil of such school who shall be or remain a member of or shall join or promise to join, or who shall become pledged to become a member of, or who shall solicit any other person to join, promise to join, or be pledged to become a member of any such public school fraternity, or sorority, or secret society. Provided that the above restriction shall not be construed to apply to agencies for public welfare, viz: Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan American Clubs, and Scholarship societies, and other kindred educational organizations sponsored by the State or National educational authorities.

Soliciting membership; penalty

Sec. 4. It shall be unlawful from and after the passage of this Act in the Counties within the provisions of this Act, which counties shall include all counties in this State having a population of not less than three hundred and twenty thousand (320,000) inhabitants and not more than three hundred and fifty thousand (350,000) inhabitants, according to the last Federal Census, for any person not enrolled in any such public school of any such County to solicit any pupil enrolled in any such public school of any such County to join or to pledge himself or herself to become a member of any such public school fraternity or sorority or secret society or to solicit any such pupil to attend a meeting thereof or any meeting where the joining of any such school fraternity, sorority, or secret society shall be encouraged. Any person violating this Section of this Act shall be deemed guilty of a misdemeanor and shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) for each and every offense.

Inapplicable to schools above high school level

Sec. 5. The provisions of this Act shall not apply to schools organized for higher education beyond the high school level.

Repeal of conflicting laws; partial invalidity

Sec. 6. All laws and parts of laws in conflict with any of the provisions of this Act in so far as this Act is concerned, are hereby specifically repealed; and should any sections or provisions hereof be by the Courts declared unconstitutional or invalid, such decision shall not impair or invalidate any remaining sections or provisions of this Act. [Acts 1937, 45th Leg., H.B. # 746.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 7 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to prohibit fraternities, sororities, and secret societies in the public schools in all counties of this State having a pop-

ulation of not less than three hundred and twenty thousand (320,000) inhabitants and not more than three hundred and fifty thousand (350,000) inhabitants according to the last Federal Census; making certain exceptions; providing for the enforcement of same; repealing all laws in conflict; providing a saving clause; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #746.]

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER SEVEN—FAILURE OF DUTY

Art.
427c—1. Clerk's failure to notify Industrial Accident Board of Appeals or give notice of judgment [New].

Art.
427e. Old age assistance; offenses; penalty [New].

Art. 427c. [Superseded.]

This article (Acts 1931, 42nd Leg., p. 308, ch. 182) was, in effect, re-enacted by Acts 1937, 45th Leg., H.B. #420, § 19, effective June 11, 1937. The re-enacted provisions

are set out as article 427c—1. As enacted in 1931, this article contained provisions identical with the provisions now set out in article 427c—1.

[Art. 427c—1. Clerk's failure to notify Industrial Accident Board of Appeals or give notice of judgment]

That in every case appealed from the Board to any district or county court, the Clerk of such Court shall, within twenty (20) days after the filing thereof, mail to the Board a notice giving the style, number, and date of filing such suit, and shall, within twenty (20) days after judgment is rendered in such suit, mail to the Board a certified copy of such judgment. The duties devolving upon district and county clerks under this law shall constitute a part of their ex officio duties and for such services they shall not be entitled to any fee.

In every such case the attorney preparing the judgment shall file the original and a copy of same with the Clerk of the Court. However, the failure of such attorney to comply with this provision shall not excuse the failure of the Clerk of a district or county Court to mail a certified copy of such judgment to the Board as above provided.

Any Clerk of a district or county Court who fails to comply with the provisions of this law shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Two Hundred and Fifty Dollars (\$250). [Acts 1937, 45th Leg., H.B. # 420, § 19.]

Effective June 11, 1937.

This article, as enacted by Acts 1937, 45th Leg., H.B. #420, § 19, contains provisions identical with Acts 1931, 42nd Leg.,

p. 308, ch. 182, set out as article 427c, and at the end thereof carried a citation to the Act of 1931.

Art. 427e. Old age assistance; offenses; penalty

It shall be unlawful for any attorney at law or attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant for old age assistance or aid in this State to charge a fee for his services in excess of Ten Dollars (\$10) in aiding or representing any such applicant before the Old Age Assistance Commission or for any other services in aiding such applicant to secure an old age assistance grant. It shall likewise be unlawful for any person, firm or corporation to advertise, hold himself out or solicit the procurement of old age assistance or aid. Any person violating this Section of this Act shall be punished by a fine not to exceed Five Hundred Dollars (\$500), or by confinement in the county jail for a period of not to exceed thirty (30) days, or by both such fine and imprisonment. Where any firm, association, or corporation is found to be guilty of a violation of the provisions of this Section the offending act of such firm, association or corporation shall be deemed to be the act of the president, general manager, or other managing official

of such firm, association, or corporation, and such official shall be subject to the same penalties as herein provided for other persons. [Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 2, § 19.]

Effective Oct. 31, 1936.

TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

CHAPTER SEVEN—MISCELLANEOUS OFFENSES

Art.

528a. Enclosing or removing fence enclosing cemetery [New].

Art.

535a. Traffic in children under fifteen years [New].

Art. 528a. Enclosing or removing fence enclosing cemetery

If any person shall enclose, or remove the fence enclosing, any cemetery or burial ground for the intent of using the same for any other purpose or use than as a cemetery or burial ground without the consent of the owners of such cemetery or burial ground he shall be guilty of a misdemeanor and upon conviction therefor shall be fined not more than Two Hundred Dollars (\$200) or by imprisonment in the county jail for not more than thirty (30) days or by both such fine and imprisonment; provided that this Act shall be construed so as not to apply to any cemetery or burial ground condemned for public use in any eminent domain proceedings. [Acts 1937, 45th Leg., H.B. # 937, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that if any person shall enclose or shall remove the fence from the enclosure or any part thereof of any cemetery or burial ground with the purpose or intent to use such cemetery or burial ground for any other use or purpose

he shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not to exceed Two Hundred Dollars (\$200), or by imprisonment in the county jail or by both such fine and imprisonment; providing this Act shall be construed so as not to apply to any cemetery or burial ground condemned for public use in any eminent domain proceedings; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #937.]

Art. 535a. Traffic in children under fifteen years

Section 1. Any person who shall within this State barter, sell or exchange any child under the age of fifteen (15) years shall be deemed guilty of a felony and upon conviction thereof shall be confined in the State penitentiary for not less than two years, nor more than five years.

Offering or advertising for barter, sale, or exchange

Sec. 2. Any person who shall within this State offer or advertise for barter, sale or exchange any child under the age of fifteen (15) years, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be confined in the county jail for not less than three months, nor more than one year, and such person, association or corporation may be enjoined in a suit brought by the Attorney General of the State of Texas or the District or County Attorney of any county in which said act or acts may have occurred.

Partial invalidity

Sec. 3. Should any portion or section of this Act be declared unconstitutional or otherwise invalidated by a court of competent jurisdic-

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tion, such decision shall not affect the remaining portion or sections of the Act. [Acts 1937, 45th Leg., S.B. # 438.]

Effective May 15, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to make it unlawful to barter, sell or exchange any child under the age of fif-

teen (15) years, or to offer or advertise for barter, sale or exchange any child under the age of fifteen (15) years; prescribing penalties for a violation of this Act, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #438.]

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

CHAPTER TWO—INSURANCE

[Art. 571a. Violating law as to automobile insurance]

Any insurer or officer or representative thereof which shall violate any provision of this Act¹ shall be subject to a revocation of his or its license by the Board of Insurance Commissioners and in addition shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each such offense. [Acts 1927, 40th Leg., p. 373, ch. 253, § 12, as amended Acts 1937, 45th Leg., S.B. # 77, § 3.]

¹ Article 4682b.

Amendment of 1937 effective May 15, 1937.

Effective 90 days after March 16, 1927, date of adjournment. Sections 1-11 of said Acts 1927, 40th Leg., p. 373, ch. 253, are published as art. 4682b, Civil Statutes.

CHAPTER FIVE—PRIZE FIGHTING, ROPING CONTESTS, ETC.

[Art. 614b. Endurance contests limited to twenty four hours; exception of school or college contests]

Sec. 1. It shall hereafter be unlawful for any person to conduct in public competition for prizes, awards or admission fees, any personal, physical or mental endurance contest that continues longer than twenty-four (24) hours.

Sec. 2. It shall hereafter be unlawful for any person to conduct, within any period of one hundred sixty-eight (168) hours, in public competition for prizes, awards, or admission fees, more than one (1) such personal, physical or mental endurance contest at the same place or location, and in which any of the same contestants engage.

Sec. 3. It shall hereafter be unlawful for any contestant to engage in any personal, physical or mental endurance contest for a period of longer than twenty-four (24) hours.

Sec. 4. It shall hereafter be unlawful for any person to engage, within any period of one hundred sixty-eight (168) hours, in more than one (1) personal, physical or mental endurance contest which is conducted in the same place or location.

Sec. 5. Each promoter of or person conducting any personal, physical or mental endurance contest in public competition for prizes, awards or admission fees, who shall violate any provision of this Act, or any person who shall enter any contest that violates any provision of this Act, or any person who shall violate any provision of this Act, shall be fined not less than \$100.00 nor more than \$1000.00 for each offense, or confined in the

county jail not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment.

Sec. 6. The provisions of this Act shall not apply to any athletic contest of schools, colleges or universities of the State, nor to any trial contest for the purpose of testing the strength and capacity of materials and machinery of any kind.

Sec. 7. Any house, structure, building, place, or open air space that is being used for the purposes in violation of the provisions of this Act is hereby declared to be a common nuisance. Any person who knowingly maintains or assists in the maintaining of such a place or who permits the maintenance of such a place on premises owned by him, or under his control, is guilty of maintaining a nuisance, and any State Ranger or any peace officer, any sheriff, deputy sheriff, constable, mayor, city councilman, policeman, or other peace officer or any city, civic, or other organization which shall promote or assist in promoting or knowingly permit or accept any receipts from any persons who shall promote or assist in promoting or take part in any contest enumerated or referred to in said Chapter 62 shall be punished as provided in Section 5 of said Chapter 62. [As amended Acts 1937, 45th Leg., H.B. # 483, § 1.]

Amendment of 1937, effective May 15, 1937, declared an emergency and provided that the act should take effect from and after its passage.

Section 2 of the amendatory Act of 1937

declared an emergency and provided that the act should take effect from and after its passage.

CHAPTER SIX—GAMING

Art.

646a. Dog races, betting on; keeping place for betting on races; corporations for promotion of dog racing prohibited [New].

Art.

648—1. Horse racing, betting on [New].

648—2. Penalty for betting on horse races [New].

652a. Bookmaking; definition; penalty [New].

Art. 645. [588] [397] What "bet or wager" includes

The bet or wager may be of money, or of any article of value, and any device in the form of purchases or sale or in any other form made for the purpose of concealing the true intention of the parties is equally within the meaning of a bet or wager. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #1, § 3.]

Effective 90 days after June 25, 1937, date of adjournment.

Art. 646a. Dog races, betting on; keeping place for betting on races; corporations for promotion of dog racing prohibited

Section 1. Hereafter it shall be unlawful for any person to bet or wager money or thing of value upon any dog race, or upon the result of any race, speed, skill, or endurance contest, of, by or between dogs, run or to be run or held in this State or elsewhere.

Sec. 2. Whoever violates any provision of this Act shall upon conviction, be fined not less than Two Hundred (\$200.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, and be imprisoned in jail not less than thirty (30) days, nor more than ninety (90) days.

Sec. 3. If any person shall keep or be in any manner interested in keeping any premises, building, room or place for the purpose of being used as a place to bet or wager upon dog races or contests of speed, skill or endurance of, by or between dogs, or to keep or to exhibit for the purpose of gaming any such premises, building, room or place whatsoever, or as a place where people resort to gamble, bet or wager upon any such

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dog race or contest, he shall upon conviction be confined in the penitentiary not less than two (2) nor more than four (4) years. Any premises, building, room or place shall be considered as used for gaming or to gamble with or for betting or wagering if any money or anything of value is bet on such dog race or contest or if the same is resorted to for the purpose of gaming or betting upon any such dog race or contest.

Sec. 4. No corporation, private or otherwise, may be organized, formed, chartered or authorized to do business in this State which has for its purpose directly or remotely, the operation or running of dog races, or contests of speed, skill or endurance of, by or between dogs, or the maintenance, furnishing, leasing or renting of a track, place, enclosure, unenclosure, room, building or combination of either where dog races or contests of speed, skill or endurance of, by or between dogs are, or may be held, run, raced or exhibited.

The charter or permit of any corporation now doing business in this State, may be forfeited, under the provisions of law governing the forfeiture of corporate charters in this State, for any or all of the grounds herein specified and set forth in this section.

Sec. 5. It shall be the duty of all peace officers to arrest with or without a warrant any and all persons violating any provision of this Act, whenever such violation shall be within the view or knowledge of such peace officer.

Sec. 6. It is hereby provided that if any section, subsection, paragraph, clause or part thereof of this Act is declared unconstitutional or inoperative by any Court of competent jurisdiction, the same shall not affect or invalidate the remaining section, subsection, paragraph, clause or part of this Act. [Acts 1937, 45th Leg., 1st C.S., S.B. #3.]

Effective June 25, 1937.

Section 7 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act making it unlawful to bet or wager money or anything of value upon any dog race, or upon the result of any race, speed, skill or endurance contest between dogs, to be run or held in this State or elsewhere and providing a penalty therefor; prohibiting keeping any premises, building, room or place for the purpose of being used

as a place to bet or wager upon dog races and providing a penalty therefor; prohibiting the incorporation of concerns for the purpose of operating dog tracks and providing penalties and forfeiture of charters and permits of corporations violating the provisions of this Act; providing for the arrest of violators of this Act in certain instances without warrants; providing a severance or savings clause, and declaring an emergency. [Acts 1937, 45th Leg. 1st C.S., S.B. # 3.]

Art. 648—1. Horse racing, betting on

Sec. 2. That from and after the passage of this Act¹ it shall be unlawful for any person, firm, corporation, or association of persons at or within any enclosure in this State at which any horse race is to be run, trotted, or paced, to take or accept any bet or aid any other person in betting, taking, or accepting any bet upon any horse race by means of the certificate system of betting.

The purpose of this section is to prohibit that method of betting under which contributions of money are received toward the entry of any horse in a race selected to finish in a certain position in such race, the person so contributing acquiring an interest in the total money so contributed on all horses in such race selected to finish in that position in proportion to the amount of money contributed by such person, the person so contributing receiving a certificate on which is shown the number of the race, the amount contributed, and the number or name of the horse respectively selected by such person, and the position in which the horse has been selected to run. Under such certificate system the sums contributed on all horses selected to run in the same position are paid out to the hold-

ers of certificates on the winning horse equally in proportion as the amount contributed by the holder of the certificate bears to the total amount contributed toward the entry of all horses in said race selected to run in that position.

Sec. 2-a. That from and after the passage of this Act, it shall be unlawful for any person, association of persons, or any corporation, at any race track in this State, to bet or wager any money, or any article of value, on any horse race to be run, trotted, or paced at any such track in this State. [Acts 1937, 45th Leg., 1st C.S., S.B. #1.]

1 This article and arts. 645, 648-2, 655a. section 4 is published as P.C. art. 648-2 and section 5 declared an emergency and provided that the act should take effect from date of adjournment.

Section 1 repealed L.1933, 43rd Leg. 1st C.S., ch. 10. Sec. 3 amended P.C. art. 645, and after its passage

Art. 648—2. Penalty for betting on horse races

Whoever violates any provision of this Act¹ shall be fined not less than Two Hundred (\$200.00) Dollars nor more than Five Hundred (\$500.00) Dollars and be imprisoned in jail not less than thirty (30) days nor more than ninety (90) days. [Acts 1937, 45th Leg., 1st C.S., S.B. #1, § 4.]

¹ This article and arts. 645, 648-1, 655a.

Effective 90 days after June 25, 1937, date of adjournment.

Art. 652a. Bookmaking; definition; penalty

Section 1. Any person who takes or accepts or places for another a bet or wager of money or anything of value on a horse race, dog race, automobile race, motorcycle race or any other race of any kind whatsoever, football game, baseball game, athletic contest or sports event of whatsoever kind or character; or any person who offers to take or accept or place for another any such bet or wager; or any person who as an agent, servant or employee or otherwise, aids or encourages another to take or accept or place any such bet or wager; or any person who directly or indirectly authorizes, aids or encourages any agent, servant or employee or other person to take or accept or place or transmit any such bet or wager shall be guilty of book making and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5) or by confinement in the county jail for not less than ten (10) days nor more than one (1) year and by a fine of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars.

Number of acts to constitute offense

Sec. 2. Any person who shall within a period of one (1) year next preceding the filing of the indictment commit as many as three (3) acts which are prohibited under Section 1 of this Act shall be guilty of engaging in the business of book making and upon conviction shall be punished as provided in Section 1 of this Act.

Definition

Sec. 3. The term "pursuing the business of book making" within the meaning of Section 2 shall not be restricted to mean the primary or principal vocation or business of the defendant.

Using place for book making

Sec. 4. Any owner, agent, lessor or lessee of any real or personal property who shall knowingly use or knowingly permit such property to be used in connection with book making, as such term is herein defined,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

shall be guilty of a felony and upon conviction shall be punished as set forth under Section 1 of this Act.

Use of Communication methods in aid of book making; penalty

Sec. 5. It shall be unlawful for any person or the agent, servant or employee of any person, corporation or association of persons, knowingly to furnish telephone, telegraph, teletype, teleprint or radio service or equipment; or to place the same on any property in this State used for the purpose prohibited by this Act or to assist in the violation of any of the provisions of this Act by the furnishing of any telephone, telegraph, teletype, teleprint or radio service or equipment. It shall also be unlawful for any person or association of persons or corporations knowingly to permit any telephone, telegraph, teletype, teleprint, radio or other means of communication whatever to remain on any property used for the purpose prohibited by this Act. Any person or association of persons or any corporation violating any provision of this section shall be fined not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars. No person or corporation engaged in the business of furnishing telephone, telegraph, teletype, teleprint, radio service or equipment to the public shall be liable in damages when it or they, in good faith, refuse to furnish telephone, telegraph, teletype, teleprint, radio service or equipment, or refuse to continue to do so, believing it to be used or it is used in violation of this Act, or where it or they refuse to furnish or to continue to furnish telephone, telegraph, teletype, teleprint, radio service or equipment after written notice from a grand jury, district attorney, county attorney, sheriff, chief of police, constable, any member of the State Highway Patrol or State Ranger served by registered mail upon such person, corporation or association of persons, that the equipment or service furnished to a particular person, corporation or place is being furnished in violation of the provisions of this Act. After such notice has been given to any person or corporation engaged in the business of furnishing telephone, telegraph, teletype, teleprint, radio service or equipment to the public that such service or equipment is being used or is to be used in violation of this Act, the continued furnishing of such service or equipment shall be prima facie evidence of the knowledge of such person, corporation or association of persons that said property or premises are being used in violation of this Act.

Public nuisance; abatement and injunction; bond

Sec. 6. Any room, place, building, structure or property or the furniture, fixtures or paraphernalia of whatsoever kind or character used in connection with the offense of book making or pursuing the business of book making, as defined in this Act, are hereby declared to be public nuisances. Whenever the district attorney, criminal district attorney, county attorney or Attorney General has reliable information that such a nuisance exists he shall file a suit in the name of the State in the county where the nuisance is alleged to exist to abate such nuisance. If judgment be in favor of the State, then judgment shall be rendered abating said nuisance and enjoining the defendant or defendants from maintaining the same and ordering the said premises to be closed for one year from date of said judgment, unless the defendants in said suit or the owner, tenant or lessee of said property, make bond payable to the State at the county seat of the county where such nuisance is alleged to exist in the penal sum of not less than One Thousand (\$1,000.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars with good and sufficient sureties to be approved by the judge trying the case conditioned that the acts prohibited in this law shall not be done or permitted to be done in or upon

said premises or the terms of the injunction violated. On the violation of any condition of such bond or injunction the whole sum may be recovered as a penalty in the name and for the State in the county where such conditions are violated, all such suits to be brought by the district attorney, criminal district attorney, county attorney of such county, or the Attorney General of Texas.

Accomplice testimony; corroboration; immunity of witness

Sec. 7. A conviction may be had for the violation of any of the provisions of this Act upon the uncorroborated testimony of any accomplice; provided, further, that any party to a transaction prohibited by this Act may be required to furnish evidence and testify, but after so testifying such person shall be exempt from prosecution with reference to any transaction about which he is required to furnish evidence.

Allegations and proof

Sec. 8. Upon the trial for any offense under this Act it shall not be necessary that the State allege or prove that any race, game, contest or event was in fact run or did in fact happen or occur.

Joint indictments; joint trials

Sec. 9. For the violation of any of the provisions of this Act, two or more persons may be jointly indicted in single or multiple counts of the same indictment and at the election of the State be jointly tried; provided that upon any such joint trial the defendants may testify as witnesses for one another.

Arrest without warrant

Sec. 10. It shall be the duty of all peace officers and all other officers named in this Act to arrest without warrant any and all persons violating any provision of this Act, whenever such violation shall be committed within the view of such officer or officers.

Provisions cumulative

Sec. 11. The provisions of this Act shall be cumulative of all other existing articles of the Penal Code upon the same subject and in the event of a conflict between existing articles and the provisions of this Act then and in that event the provisions, offenses and punishments set forth herein shall prevail over such existing articles.

Partial invalidity

Sec. 12. If any clause, provisions, requirement, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act; but shall be confined in its operation to the clause, provisions, requirement or part thereof declared invalid. [Acts 1937, 45th Leg., 1st C.S., S.B. #2.]

Effective June 25, 1937.

Section 13 declared an emergency and provided that the act should take effect from and after its passage.

Title of Act:

An Act defining and prohibiting the offenses of "book making" and of "pursuing the business of book making"; making it unlawful to permit the use of certain property in connection with book making; prohibiting and regulating the use of certain methods of communication in connection with or in aid of book making; declaring certain property used in connection with book making to be a public nuisance and

providing procedure for the abatement of that nuisance; authorizing conviction for any offense under this Act upon the uncorroborated testimony of an accomplice; and exempting from prosecution accomplices who testify; providing the quantum of proof and allegation upon trial of cases arising under this Act; prescribing penalties for a violation of the several provisions hereof; making the provisions of this Act cumulative of existing laws; providing that peace officers and other officers named herein may make arrests without warrants in certain instances; providing for the joinder of persons in indictment for the of-

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fenses herein and for joint indictment and joint trial for offenses under this Act and prescribing procedure relative thereto; providing a saving or severance clause; and declaring an emergency. [Acts 1937, 45th Leg. 1st C.S., S.B. # 2.]

Art. 655a. Texas Racing Commission; horse racing and exhibitions authorized; licenses [Repealed in part.]

Subsec. 5. Any person or persons, association or incorporation desiring to conduct racing of horses in Texas and to use in connection therewith the said certificate system, as in this Act authorized, shall make application in writing to the Racing Commission for license so to do. On the filing of such application, the Commission shall promptly cause to be published in a newspaper of general circulation in the county where the license to conduct racing is sought, and if there be no such newspaper in such county, then in a newspaper of general circulation in the nearest county, a brief notice of the contents of the application. If the newspaper used shall be a daily paper, then there shall be three (3) insertions of such notice four (4) days apart. If the newspaper used be a weekly paper, then in two (2) successive issues thereof. The expense of such publication shall be paid by the applicant, and the Commission shall have the right to require from the applicant a deposit with it of the estimated amount prior to the making of such publications.

On the completion of such publication, and if there shall be opposition to the granting of such application, the Commission shall set a hearing on the application and give written notice to all interested parties of the time and place of the hearing, allowing reasonable time and opportunity for interested parties to be so heard.

The application shall be acted on by the Commission within not exceeding twenty (20) days from the completion of the giving of such notice unless for good cause the Commission shall postpone action thereon. The application shall be finally acted on by the Commission within not exceeding sixty (60) days from the date of the filing of the application.

The application shall state the days on which such racing is desired to be conducted; it shall describe the place and race track or course at which the races are to be conducted; it shall be in such form and supply such facts as the Commission shall prescribe, and such application shall be verified. If the applicant is eligible to receive a license under the provisions of this law, it shall be the duty of the Racing Commission to fix the racing days as it determines shall be allotted to such applicant, and the Commission shall issue a license for the holding of the meeting or meetings so sought to be held. The license issued shall describe the place and track or race course at which the licensee is authorized to hold such meeting or meetings, and the authority conferred in any one license shall be limited to a twelve (12) months period from the date of the license; provided, however, the Commission may in its discretion for good cause, to be shown in writing by the applicant, issue such license for a three (3) year period from the date thereof. The rights granted by the license shall not be assignable, except on application to the Commission for authority so to do, and the permission of the Commission obtained.

The licensee shall pay to the Commission in advance, as a condition of granting of the license, a license fee for each race meeting authorized to be held, the amounts respectively thus stated, to wit:

If a race meet is to be conducted in a city or town of a population not exceeding three thousand (3,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be One Hundred Dollars (\$100); if in a city of more than three thousand (3,000) and not exceeding ten thou-

sand (10,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Two Hundred Dollars (\$200); if in a city of more than ten thousand (10,000) and not exceeding twenty thousand (20,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Five Hundred Dollars (\$500); if in a city of more than twenty thousand (20,000) and not exceeding fifty thousand (50,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of One Thousand Dollars (\$1,000); if in a city of more than fifty thousand (50,000) and not exceeding one hundred thousand (100,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Fifteen Hundred Dollars (\$1,500); and if in a city of more than one hundred thousand (100,000) inhabitants, or within twenty-five (25) miles thereof, such license fee shall be the sum of Two Thousand Dollars (\$2,000); such population to be determined by the last preceding census of the United States.

The license fees so received by the Racing Commission shall be promptly remitted to the Treasurer of the State of Texas through the State Comptroller of Public Accounts, and shall become and be a part of the Special Racing Fund hereinafter mentioned.

Cancellation, for any cause authorized under this Act, shall not entitle the licensee to a refund of the fee or any part thereof paid for such license.

The Commission may within its discretion limit the issuance of licenses to one per county in any one calendar year.

The license issued shall expressly provide that the licensee shall, in addition to the license fees paid, remit to the Treasurer of the State of Texas, through the State Comptroller, at the end of each racing meet, or sooner if directed by the Racing Commission, such amounts as are hereinafter provided, received as commission or compensation by the licensee, as authorized by this Act. This fund, when received by the Treasurer, shall be held by him and credited as a Special Racing Fund.

The expenses incurred and authorized by virtue of this Act shall be payable out of the Special Racing Fund, not otherwise, and so much thereof as may be necessary is hereby appropriated and all amounts shall be paid upon accounts approved by the Chairman of the Racing Commission and warrants drawn against said fund by the Comptroller on the State Treasury.

The Treasurer of the State of Texas, in December of each year, shall make a complete statement of the amount he has received within the calendar year under the provisions of this Act. After there shall have been charged against this fund the theretofore paid out operating expenses of the Racing Commission in that year as herein authorized, and the additional amount which the Racing Commission shall estimate as being required to be paid out in that year, and, in addition thereto, such amount as the said Racing Commission shall estimate as the expenses for the operating of the Commission for the next succeeding calendar year, the amount then remaining in this fund shall be held for and disbursed thus, viz:

After providing for the operating expenses of the Racing Commission as aforesaid, an amount equal to twenty-five per cent (25%) of the funds remaining in the Special Racing Fund shall by the Treasurer of the State of Texas be paid into and credited to the State Available School Fund of Texas as provided by the Constitution of the State of Texas. An amount equal to twenty per cent (20%) of the funds then remaining in the Special Racing Fund shall be used by the Board of Control of the State of Texas to purchase, transport, and deliver for distribution well-bred and approved stallions and jacks throughout the State of Texas,

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and in connection therewith, defray the actual reasonable expense incident to the purchase, transportation and maintenance of such animals, in order thereby to promote the breeding of better live stock in the State of Texas. After deducting from said Special Racing Fund the operating expenses of the Racing Commission as aforesaid, and after deducting from said Special Racing Fund the said twenty-five per cent (25%) going to the State Available School Fund and after deducting the said twenty per cent (20%) to be used by the Board of Control of the State of Texas as aforesaid, the balance remaining in said Special Racing Fund, so far as it may be required, shall be used for the payment of the appropriations by the Legislature for the support and maintenance of the State Department of Agriculture as said appropriations for the Department shall be fixed and allowed by the Legislature of the State of Texas from time to time. It is further provided that any excess left in the Special Racing Fund shall be by the State Treasurer transferred to and become a part of the "Texas Old Age Assistance Fund." [Acts 1933, 43rd Leg., p. 428, ch. 166, § 1, subsec. 5, as amended Acts 1933, 43rd Leg., 1st C.S., p. 32, ch. 10; Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 5.]

Effective Dec. 1, 1936.

Subsec. 5a. The licensee shall keep an accurate record of all receipts and disbursements during any racing meet authorized by the Texas Racing Commission to be conducted by said licensee, which books and records shall at all reasonable times be open to inspection of the Comptroller of Public Accounts of the State of Texas, and to the Texas Racing Commission or its duly qualified agents; and at the close of each racing meet held by such licensee, or sooner if directed by the Racing Commission, he shall remit to the Treasurer of the State of Texas through the Texas Racing Commission as follows: Where the pari-mutuel turnover is not more than One Hundred Thousand Dollars (\$100,000), one-fourth ($\frac{1}{4}$) of the ten per cent (10%) deducted by such licensee from the contributions of purchasers of certificates on horses to run first, second, and/or third in any given race; and where the pari-mutuel turnover is more than One Hundred Thousand Dollars (\$100,000) for any such meet, thirty per cent (30%) of the ten per cent (10%) deducted by such licensee from the contributions of purchasers of certificates on horses to run first, second, and/or third in any given race. In addition to the above tax, there is also levied a tax of one per cent (1%) upon the gross amount received from the sale of pari-mutuel tickets, which sum shall be deducted by the licensee and remitted to the State Treasurer in the same manner as are remitted the other taxes herein provided for. One-fourth ($\frac{1}{4}$) of the revenue from said gross receipts tax shall be credited to the Available School Fund, and three-fourths ($\frac{3}{4}$) shall be credited to the Old Age Assistance Fund. Said one per cent (1%) gross receipts tax shall be in addition to the ten per cent (10%) "take" deducted by the licensee. The licensee is hereby constituted Trustee for the State of Texas to collect and remit the sums provided herein, and such sums shall constitute and be a trust fund belonging to the State of Texas. Failure of any person to collect and remit any sums prescribed herein in accordance herewith shall constitute the offense of embezzlement, and upon conviction thereof, such person shall be punishable therefor as the law prescribes. [Acts 1933, 43rd Leg., p. 428, ch. 166, § 1, subsec. 5a, as added by Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 5.]

Effective Dec. 1, 1936.

Subsection 5c expressly repealed all conflicting laws or parts of laws.

Enterprises operating under this article

exempt from taxes specified in article 7047f of the Civil Statutes. See paragraph (d) of that article.

Acts 1937, 45th Leg., 1st C.S., S.B. # 1, § 1, repealed Laws 1933, 43rd Leg., 1st C.S., p. 32, ch. 10, but did not mention amendments to subsections 5, 5a and 7 by Acts 1935, 44th Leg., p. 804, ch. 344, § 3,

and Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, art. 3, § 5.

Authority of Commissioner of Agriculture respecting State-owned jacks and stallions, see Civ.St. art. 51-1.

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT [NEW]

I. INTOXICATING LIQUORS

- Art.
 666—7a. Notice necessary before adoption of penal rule or regulation; hearing; publication of rules and regulations.
 666—7b. Oath of office; inspectors and representatives; bond.
 666—7c. Additional Assistant Attorneys General to enforce Act; stenographers; offices.
 666—12a. Hearing as to cancellation or suspension of permit; notice; procedure.
 666—15a. Commissioners Courts and cities and towns authorized to levy fee on certain permittees; permits displayed; penalty.
 666—15b. Fees payable in advance for year; exceptions; computation of time; separate outlets; refunds.
 666—15c. Application for permits other than wine and beer retailer's permits.
 666—15d. Loss of permit; duplicate or corrected permit; sworn statement of corporate stock ownership; penalty.
 666—16. Surety company bonds required; amount.
 666—17. Unlawful Acts of permittees, and others enumerated.
 666—17a. Possession of equipment or material for manufacturing illicit beverages; false statement in application for permit or license; perjury.
 666—20. Searches and seizures.
 666—21b. Rules and regulations designating persons permitted to purchase stamps.
 666—21c. Records of production, receipt of liquor, sales, and stamps used by permittee; false entries.
 666—23a. Transportation from wet area to wet area; importation of liquor for personal use; stamps; hotels authorized to hold package store permits; evidence.
 666—25a. Regulations by Commissioners' Courts and by cities and towns.
 666—40a. Contest of election.

Art.

- 666—41a. Certified copies of judgment and of information to be furnished Board; certifying results of local option election; report as to status of wet and dry areas.
 666—50. [Repealed].
 666—51. Saving clause.

II. MALT LIQUORS

- 667—1. Definitions.
 667—2. Where lawful to manufacture or sell beer.
 667—3. License required.
 667—3a. Importation of beer without distributor's or manufacturer's license unlawful.
 667—3b. Quantity of beer imported for personal use; importation by railroad for passengers.
 667—4. License fees payable before issuance of license; disposition of proceeds.
 667—5. Application for license.
 667—6. Hearing upon application.
 667—7. Expiration and renewal of licenses.
 667—8. Containers.
 667—9. Records.
 667—10. Prohibited hours.
 667—10½. Regulation by cities and towns [New].
 667—11. Reports of assessor and collector of taxes.
 667—12. Agent to accept service.
 667—13. Prohibited contributions.
 667—14. Word "saloon" prohibited.
 667—15. Restrictions on consumption.
 667—16. Sale of stock after license cancelled.
 667—17. Blinds and barriers.
 667—18. Refunding fee for unexpired term.
 667—19. Cancellation of license.
 667—20. Hearings.
 667—21. Suspension of license.
 667—22. Appeal; suit to restrain suspension; evidence; effect of cancellation or suspension.
 667—23. Beer tax; stamps.
 667—24. Marketing practices.
 667—25. Transportation of beer.
 667—26. Penalty.
 667—27. Restraining orders and injunction; violation of injunction or restraining order, effect of.

Art. 666—3. Definitions

(a). The term "open saloon" as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in

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part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, or any place where any such liquors are sold or offered for sale for human consumption on the premises where sold.

(b). It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

(c). It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit or Beer Retailer's License has been issued or any officer, agent, servant, or employee thereof to have in his possession on the licensed premises, any distilled spirits or any liquor containing alcohol in excess of fourteen (14) per centum by volume.

(d). Any person who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one year. Any person who is twice convicted under the provisions of this Section shall for the second and all subsequent offenses be punished by fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), and by confinement in the county jail for not less than thirty (30) days nor more than one year. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 3, as amended Acts 1937, 45th Leg., H.B. # 5, § 1.]

Section 52 of the amendatory Act of 1937 declared an emergency and provided that the act should take effect from and after September 1, 1937.

Section 51 of the Act of 1937, cited to the text, reads as follows: "If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in either

Article I or II of this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity."

[Art. 666—3a. Liquor defined]

The following definitions of words and terms shall apply as used in this Act:

"Alcoholic Beverage" shall mean alcohol and any beverage containing more than one-half of one per cent of alcohol by volume which is capable of use for beverage purposes, either alone or when diluted.

"Consignment Sale" shall mean the delivery of alcoholic beverages under any agreement, arrangement, condition, or system whereby the person receiving the same has the right at any time to relinquish possession to or return them to the shipper and whereby title to such remains in the shipper. It shall also mean the delivery of alcoholic beverages under any agreement, arrangement, condition, or system whereby the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver as well as the delivery of alcoholic beverages to a factor or broker or any other method employed by a shipper or seller whereby any person is placed in actual or constructive possession of alcoholic beverages without acquiring title thereto, or any method employed by a shipper or seller whereby any person designated as the purchaser did not in fact purchase the same. It is not intended that this definition shall exclude any other kind of transaction which in law may be construed as a consignment sale.

"Distilled Spirits" shall mean alcohol, spirits of wine, whiskey, rum, brandy, gin, and any liquor produced in whole or in part by the process of distillation, including all dilutions and mixtures thereof.

"Illicit Beverage" shall mean and refer to any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, stored, possessed, imported, or transported in violation of this Act, or on which any tax imposed by the laws of this State has not been paid and the tax stamp affixed thereto; and any alcoholic beverage possessed, kept, stored, owned, or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse, store, or transport in violation of the provisions of this Act.

"Liquor" shall mean any alcoholic beverage containing alcohol in excess of four (4) per centum by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, tequilla, mescal, habanero, or barreteago, shall be prima facie evidence that the same is liquor as herein defined.

"Person" shall mean and refer to any natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

"Premise" shall mean the grounds as well as all buildings, vehicles, and appurtenances pertaining thereto, and shall also include any adjacent premises, if directly or indirectly under the control of the same person.

"Wine and vinous liquor" shall mean the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, and berries.

Any definition contained herein shall apply to the same word in any form. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 3-a, as amended Acts 1937, 45th Leg., H.B. # 5, § 2.]

Effective September 1, 1937.

[Art. 666—4. Manufacture, sale or possession of liquor unlawful]

It shall not be unlawful to manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess, possess for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process any liquor in this State, nor to possess any equipment or material designed for or capable of use for manufacturing liquor, provided that the rights or privileges so to do are granted by any provision of this Act. It is further expressly provided that any rights or privileges granted by the provisions of this Section, as exceptions to the prohibited acts in other sections shall be enjoyed and exercised only in the manner as provided. Any act done by any person which is not granted in this Act is hereby declared to be unlawful. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 4, as amended Acts 1937, 45th Leg., H.B. # 5, § 3.]

(a). It shall be unlawful for any person to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit, or take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor in any wet area without first having procured a permit. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 4, as amended Acts 1937, 45th Leg., H.B. # 5, § 4.]

(b). It shall be unlawful for any person in any dry area to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit or take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor, distilled spirits, whiskey, gin, brandy, wine, rum, beer or ale. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 4, as amended Acts 1937, 45th Leg., H.B. # 5, § 5.]

Effective September 1, 1937.

[Art. 666—5. Liquor Control Board]

There is hereby created a Board named the Texas Liquor Control Board, consisting of three (3) persons, all of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated by the Governor to be Chairman of the said Board, and said members shall receive their actual expenses while engaged in the performance of their duties and a per diem of Ten Dollars (\$10) per day for not exceeding sixty (60) days for any one year. Each member at the time of his appointment and qualification shall be a resident of the State of Texas and shall have resided in said State for a period of at least five (5) years next preceding his appointment and qualification, and he also shall be a qualified voter therein. Of the Members initially appointed each shall hold office from the date of his appointment for the following respective terms, and until their respective successors shall qualify: One member for two (2) years, one for four (4) years, and one for six (6) years from the effective date of the Act. Each member may be initially appointed on or subsequent to the date this Act goes into effect. The Governor, at the time of making and announcing the appointment of said three (3) members, as well as in the commission issued by him to each of them, shall designate which of said members shall serve for each of the said respective terms, and also which shall be the Chairman of the Board. Upon the expiration of each of said terms, the term of office of each member thereafter appointed shall be six (6) years from the time of his appointment and qualification, and until his successor shall qualify. In case any member shall be allowed to hold over after the expiration of his term, his successor shall be appointed for the balance of the unexpired term. Vacancies in said Board shall be filled by the Governor for the unexpired term. Each member shall be eligible for reappointment in the discretion of the Governor.

No person shall be eligible for appointment, nor shall hold the office of member of the Board, nor be appointed by the Board, nor hold any office or position under the Board, who has any connection with any association, firm, person, or corporation engaged in or conducting any alcoholic liquor business of any kind or who holds stocks or bonds therein, or who has pecuniary interest therein, nor shall any such person receive any commission or profit whatsoever from or have any interest whatsoever in any purchase or sales of any alcoholic liquors. The office of the Board shall be in the City of Austin, Texas. The said Board shall meet at such times within the City of Austin as the Board shall determine, and the members thereof shall be entitled to their reasonable expenses for each meeting so attended, and the per diem hereinabove referred to. A majority of the members shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the Board. The Board shall appoint an Administrator who shall serve at the Board's pleasure and who shall under the supervision of the Board administer the provisions of this Act. He shall receive a salary of Six Thousand Dollars (\$6,000) per annum, and shall execute a bond in the sum of Ten Thousand Dollars (\$10,000) payable to the State of Texas, conditioned as the Board shall require.

The Board or Administrator shall appoint all necessary clerks, stenographers, inspectors, and chemists, and other employees to properly enforce the provisions of this Act.

No person shall be eligible for any appointment who has any financial connection whatever with any person engaged in or conducting any liquor business of any kind, or who holds stock or bonds therein, or

who has any pecuniary interest therein, nor shall any such person receive any commission or profit whatever from, or have any interest whatsoever in, the purchases or sales made by persons authorized by this Act to manufacture, purchase, sell, or otherwise deal in the liquor business.

The Administrator shall act as manager, secretary, and custodian of all records, unless the Board shall otherwise order.

The Administrator shall devote his entire time to said office.

The Board or Administrator shall fix the duties, salaries, and wages of all employees authorized by this Act but such compensation, salaries, and wages shall not be greater than the salaries fixed for similar positions and duties in other departments of the State Government. The Board shall likewise have power to require any employee authorized by this Act to give bond for the faithful performance of his duties in such an amount and under such conditions as it may deem adequate and proper. All appointments which have heretofore been made under the terms and provisions of Section 5, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature¹ shall not be affected in any manner by the reenactment of this particular section as herein contained, but all such appointments shall continue as though this section had not been reenacted.

It shall be the duty of the Board, during the month of January of each year, to make a report to the Governor, concerning its administration of this Act. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 5, as amended Acts 1937, 45th Leg., H.B. # 5, § 5½.]

¹ This section.

Effective September 1, 1937.

[Art. 666—6. Powers and duties of Board]

Among others, the functions, powers, and duties of the Board shall include the following:

(a). To supervise, inspect, and regulate every phase of the business of manufacturing, importation, exportation, transportation, storage, sale, distribution, possession for the purpose of sale, and possession of all alcoholic beverages, including the advertising and labeling thereof, in all respects necessary to accomplish the purposes of this Act. The Board is hereby vested with power and authority to prescribe all necessary rules and regulations to that end; to require the filing of such reports and other data by all persons engaged in any phase of the alcoholic beverage business, which it may deem necessary to accomplish the purposes of this Act; to supervise and regulate all licensees and permittees and their places of business in all matters affecting the general public, whether herein specifically mentioned or not, and to authorize its agents, servants, and employees under its direction to carry out the provisions hereof.

(b). To grant, refuse, suspend, or cancel permits or licenses for the purchase, transportation, importation, sale, or manufacture of alcoholic beverages or other permits in regard thereto.

(c). To investigate and aid in the prosecution of violations of this Act and other Acts relating to alcoholic beverages, to make seizures of alcoholic beverages manufactured, sold, kept, imported, or transported in contravention hereof, and apply for the confiscation thereof whenever required by this Act, and co-operate in the prosecution of offenders before any Court of competent jurisdiction.

(d). To exercise all other powers, duties, and functions conferred by this Act, and all powers incidental, convenient, or necessary to en-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

able it to administer or carry out any of the provisions of this Act and to publish all necessary rules and regulations.

(e). In the event the United States Government shall provide any plan or method whereby the taxes on liquor shall be collected at the source, the Board shall have the right to enter into any and all contracts and comply with the regulations, even to the extent of partially or wholly abrogating any provisions hereof which may be in conflict with Federal law or regulations to the end that the Board shall receive the portion thereof allocated to the State of Texas, and to distribute the same as in this Act is provided.

(f). To require by rule and regulation that any liquor sold in this State shall conform in all respects to the advertised quality of such products; to promulgate rules and regulations governing labelling and advertising of all liquors in strict accordance with the labelling and advertising regulations of the Federal Alcohol Administration; to adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages, and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, and re-bottling of any alcoholic beverage and the sale thereof.

(g). To license, regulate, and control the use of alcohol and liquor for scientific, pharmaceutical, and industrial purposes, and to provide for the withdrawal thereof from warehouses and denaturing plants by regulation, and to prescribe the manner in which the same may be used for scientific research or in hospitals and in sanatoria, in industrial plants, and for other manufacturing purposes, tax-free. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 6, as amended Acts 1937, 45th Leg., H.B. # 5, § 6.]

Effective September 1, 1937.

Art. 666—7a. Notice necessary before adoption of penal rule or regulation; hearing; publication of rules and regulations

No rule or regulation for which a penalty is prescribed either by this Act or by the Board, shall be adopted by the Board except after notice and hearing. Notice of such hearing shall be given by publication in three (3) newspapers of general circulation in different sections of the State. Such notice shall specify the date and place of hearing and the subject matter of the proposed rule or regulation and shall constitute sufficient notice to all parties. The date of hearing shall be not less than ten (10) days from the date of publication of notice. At such hearing any person, either by himself or by attorney, may present relevant facts either in support or opposition thereto. The Board shall upon a finding of facts, have the authority and power to adopt, modify, nullify, or alter such rules or regulations.

Upon the final adoption of any rule or regulation, the Board shall cause the same to be published one time in a newspaper of general circulation in this State and the same shall have the force and effect of law as of the date of publication, unless a different date is specified therein. The publication thereof shall be sufficient notice to all parties. Any person who violates any valid rule or regulation or any provision thereof shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty as prescribed in Section 41, Article I of this Act.¹ [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 7a, as added Acts 1937, 45th Leg., H.B. # 5, § 7.]

¹ Section 666—41 of this chapter.

Effective September 1, 1937.

Art. 666—7b. Oath of office; inspectors and representatives; bond

All inspectors and representatives of the Board shall subscribe to the constitutional oath of office which shall be filed in the office of the Board. The Board or Administrator is empowered to commission such number of its inspectors and representatives which it deems necessary to enforce the provisions of this Act. Such commissioned inspectors and representatives shall have all the powers of a peace officer coextensive with the boundaries of this State. Such commissioned inspectors and representatives shall make and execute such bond as may be required by the Board. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 7b, as added Acts 1937, 45th Leg., H.B. # 5, § 8.]

Effective September 1, 1937.

Art. 666—7c. Additional Assistant Attorneys General to enforce Act; stenographers; offices

For the purpose of enabling the Board to more efficiently enforce the provisions of this Act, the Attorney General of the State of Texas is hereby directed to appoint as many as six (6) Assistant Attorneys General as the Board may determine to be necessary; and the Attorney General and such Assistants shall prosecute all suits requested by the Board and defend all suits against the Texas Liquor Control Board. The Board is directed to provide said Assistant Attorneys General with the necessary stenographers and office space; and such Assistant Attorneys General shall be paid by the Board out of funds appropriated to it for the purposes of administration of this Act and their compensation shall be upon the same basis as Assistant Attorneys General devoting their time to general State business. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 7c, as added Acts 1937, 45th Leg., H.B. # 5, § 9.]

Effective September 1, 1937.

[Art. 666—10. Publication of notice of application for permit]

Every applicant for a Pharmacist's Medicinal, Brewer's, Distiller's, Winery (except Class B Winery), Wholesaler's, Class B Wholesaler's, Wine Bottler's, or Package Store Permit under this Act shall give notice of such application by publication for two (2) consecutive issues in a newspaper of general circulation published in the city or town in which applicant's place of business is located. Provided, however, that in such instances where no newspaper is published in the city or town, then the same shall be published in a newspaper of general circulation published in the county where the applicant's business is located, and if no newspaper is published in the county, the notice shall be published in a qualified newspaper which is published in the closest neighboring county and circulated in the county of applicant's residence. Such notice shall be printed in ten (10) point black face type and shall set forth the type of permit to be applied for, the exact location of the place of business, the name of the owner or owners thereof, and if operating under an assumed name, the trade name together with the names of all owners, and if a corporation, the names and titles of all officers. The cost of such notice shall be borne by the applicant. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 10, as amended Acts 1937, 45th Leg., H.B. # 5, § 10.]

Effective September 1, 1937.

[Art. 666—11. Refusal of permit; grounds]

The Board or Administrator shall refuse to issue a permit to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

(1). That the applicant has been convicted for the violation of any provision of this Act during the two (2) years next preceding the filing of his application.

(2). That the applicant has violated any provision of this Act or any rule or regulation of the Board during the previous permit period.

(3). That the applicant has failed to answer or has incorrectly answered any of the questions on the application.

(4). That the applicant is indebted to the State for any taxes, fees, or penalties imposed by this Act or by any rule or regulation of the Board.

(5). That the applicant is not of good moral character, or that his reputation for being a peaceable law-abiding citizen in the community where he resides is bad.

(6). That the place or manner in which the applicant may conduct his business is of such a nature, which based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency warrants a refusal of a permit.

(7). That the applicant is in the habit of using liquor to excess.

(8). That the Board or Administrator believes or has reasons to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in dry area.

(9). When the word applicant is used in (1) to (8) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 11, as amended Acts 1937, 45th Leg., H.B. # 5, § 11.]

Effective September 1, 1937.

[Art. 666—12. Cancellation or suspension of permit; grounds]

The Board or Administrator may cancel or may suspend for any period of time not exceeding sixty (60) days, after notice and hearing any such permit granted if it is found that any of the following is true:

(1). That the permittee has at any time been convicted for the violation of any provision of this Act.

(2). That the permittee has violated any provision of this Act or any rule or regulation of the Board at any time.

(3). That the permittee has made any false or misleading representation or statement in his application.

(4). That the permittee is indebted to the State for any taxes, fees, or penalties imposed by this Act or by any rule or regulation of the Board.

(5). That the permittee is not of good moral character, or that his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad.

(6). That the place or manner in which applicant conducts his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit.

(7). That the permittee is not maintaining an acceptable bond.

(8). That the permittee maintains a noisy, lewd, disorderly, or insanitary establishment or has been supplying impure or otherwise deleterious beverages.

(9). That the permittee is insolvent or incompetent or physically unable to carry on the management of his establishment.

(10). That the permittee is in the habit of using liquor to excess.

(11). That either the permittee, his agents, servants, or employees have misrepresented to a customer or the public any liquor sold by him.

(12). Where the word "permittee" is used in (1), (2), (3), (5), (6), and (10), of this Section it shall also mean and include each member of a partnership or association and each officer and the owner or owners of the majority of the corporate stock of a corporation. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 12, as amended Acts 1937, 45th Leg., H.B. # 5, § 12.]

Effective September 1, 1937.

Art. 666—12a. Hearing as to cancellation or suspension of permit; notice; procedure

(1). The Board or Administrator shall have the power upon its own motion, and it is hereby made its duty upon petition of any Mayor, Chief of Police, or any City Marshall, or the City Attorney of any city or town, or the County Judge, Sheriff, or County or District Attorney of any county of this State wherein may be located the place of business of any permittee complained of, which said petition shall be supported by the sworn statement of at least one credible person, to fix a date for hearing and give notice thereof to any permittee complained of for the purpose of determining whether the permit should be cancelled or suspended and notify such permittee that he may appear to show cause why such permit should not be cancelled or suspended in accordance with the provisions of this Act.

(2). In all cases where application is made for a permit, the Board or Administrator shall give due consideration to the recommendations of any of the above enumerated officers in granting or refusing such permit. In all instances where a protest against the issuance of a permit is made to the Board by the above enumerated officers, if upon a hearing or upon any finding of facts, it is determined that the issuance of a permit would be in conflict with the requirements as set out in this Act, the Board or Administrator shall enter its order accordingly. A copy of any order or refusal shall be mailed or delivered immediately to the applicant which said order shall set forth the reasons for refusal.

(3). The Board or Administrator may designate any of its members or other representatives to conduct any hearing, authorized by this Act, make a record thereof, and the Board or Administrator may upon such record render its decision as though the hearing had been held before all members of the Board or Administrator. The Board may prescribe its own rules of procedure and evidence.

(4). All notices of hearing for refusal, cancellation, or suspension may be served personally or by any representative of the Board or by sending the same by United States registered mail addressed to the person cited at his last known address and no other notice shall be necessary. At least three (3) days notice shall be given in all instances where a hearing is provided for by this Act. Notice of cancellation or suspension stating the reason therefor, shall be served upon the permittee or upon whatever person may be in charge temporarily, or otherwise, of the licensed premises, or shall be affixed to the outside of the door of the licensed premises, or shall be sent by United States registered mail addressed to such permittee or licensee at the licensed premises, or said cancellation notice shall be published by the Board once a week for three (3) consecutive weeks in the county in which the licensed premises are located, or if no newspaper is published in

the county, in a newspaper in a neighboring county. Cancellation or suspension shall take effect upon affixing, service, delivery, or first publication of such notice. Such affixing, service, or delivery, or publication of a cancellation or suspension shall be adequate notice to all parties concerned.

(5). All notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. It is further provided that in all suits by the State or Board or in which the State or Board is a party or parties, a transcript from the papers, books, records, and proceedings of the Board purporting to contain a true statement of accounts between the Board or the State and any person, and all rules, regulations, orders, audits, bonds, contracts, or other instruments relating to or connected with any transaction had between the Board and any person, when certified by the Administrator or Chairman of the Board to be true copies of the originals on file with the Board and authenticated under the seal of the Board shall be admitted as prima facie evidence of their verity, existence, and validity and shall be entitled to the same degree of credit that would be due to the original papers if produced and proved in Court; but when any suit is brought upon a bond or other written instrument, executed by any person and he shall by plea under oath deny the execution of such instrument, the Court shall require the production and proof of the same.

In the event the Attorney General shall file suit or claim for taxes and attach or file as an exhibit any report or audit of said permittee or licensee, and an affidavit made by the Administrator or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas, of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

A certificate under the seal of the Board executed by any member or the Administrator setting forth the terms of any order, rule, regulation, bond, or other instrument referred to in this Section and that the same had been adopted, promulgated, and published or executed and filed with the Board and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule, and regulation and the publication thereof, without further proof of such promulgation, adoption, or publication and without further proof of its contents and the same provision shall apply to any bond or other instrument referred to in this Section.

(6). It shall be the duty of the Board by its printed rules and regulations entered upon its minutes to immediately specify the duties and powers of the Administrator. In all instances whereby provisions of this Act, concurrent powers and duties are imposed upon the Board and Administrator, the Board shall designate such powers and duties which it delegates to the Administrator. All orders, decisions, and judgments entered and rendered by the Administrator in matters upon which he has been empowered to act shall not be subject to change, review, or revision by the Board. All other concurrent powers and duties which are not specifically delegated to the Administrator by the Board's order shall be considered as retained by the Board itself and all orders, decisions, and judgments rendered and entered by the Board

shall not be subject to change, review, or revision by the Administrator. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 12a, as added Acts 1937, 45th Leg., H.B. # 5, § 13.]

Effective September 1, 1937.

[Art. 666—13. Permit as personal privilege]

Any permit granted under this Act shall be a purely personal privilege, and except wine and beer retailers' permits issued to other than a railway dining, buffet, or club car, good for the year in which issued, and ending on August 31st of each year at 12 o'clock midnight, and all permits shall be revocable for the causes herein stated, subject to appeal as hereinafter provided, and shall not constitute property, nor shall it be subject to execution, nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the permittee; provided, that the Board, by regulation may provide for a time and manner in which the successor in interest of any deceased, insolvent, or bankrupt permittee or receiver may dispose of liquors left on hand by the permittee.

It is expressly provided that the acceptance of a permit or license issued under either Article I¹ or Article II² of this Act shall constitute an express agreement and consent on the part of the permittee or licensee that the Board, any of its authorized representatives or agents, or any peace officer shall have at all times the right and privilege of freely entering upon the licensed premises for the purpose of conducting any investigation or for inspecting said premises and for the further purpose of performing any duty imposed upon the Board, its representatives, or any peace officer by this Act or by any rule and regulation of the Board. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 13, as amended Acts 1937, 45th Leg., H.B. # 5, § 14.]

¹ Article 666—1 et seq.

² Articles 667—1 et seq.

Effective September 1, 1937.

[Art. 666—14. Review of decision of Board by appeal to District Court]

Unless specifically denied herein an appeal from any order of the Board or Administrator refusing, cancelling, or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. In all other suits against the Board venue shall be in Travis County, Texas. The proceeding on appeal shall be against the Board alone as defendant and the trial shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

a. All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

b. Such proceedings shall have precedence over all other causes of a different nature.

c. All such causes shall be tried before the Judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

d. The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 14, as amended Acts 1937, 45th Leg., H.B. # 5, § 15.]

Effective September 1, 1937.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

[Art. 666—15. Classification of permits]

Permits shall be of the following classes:

(1). Brewer's Permit. A Brewer's Permit shall authorize the holder thereof to:

(a). Manufacture, bottle, package, label, and sell malt liquors. The privileges granted to a brewer are confined strictly to malt liquor manufactured under his permit;

(b). Sell same in this State to wholesale permit holders only;

(c). Sell same out of State to qualified persons.

The annual permit fee shall be One Thousand Dollars (\$1,000).

(2). Distiller's Permit. A Distiller's Permit shall authorize the holder thereof to:

(a). Manufacture and rectify distilled spirits except alcohol, and bottle, package, label, and sell same. The privileges granted to a distiller are confined strictly to distilled spirits manufactured and rectified under his permit;

(b). Sell same in this State to the holders of Wholesaler's Permits only;

(c). Sell same out of State to qualified persons;

(d). Import distilled spirits for manufacturing purposes only.

The annual permit fee shall be One Thousand Dollars (\$1,000).

(3). Class A Winery Permit. A Class A Winery Permit shall authorize the holder thereof to:

(a). Manufacture, bottle, label, package, and sell wine containing not more than twenty-four (24) per centum of alcohol by volume;

(b). Manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

(c). Sell same in this State to permit holders authorized to sell same and to the ultimate consumer in unbroken packages for off-premises consumption;

(d). Sell same out of State to qualified persons;

(e). Blend wines and for that purpose only to import wines. In such instances the State tax on such imported wines shall not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.

Such permit to be granted only upon presentation of a "Winemaker's and Blender's Basic Permit" of the Federal Alcohol Administration.

The annual permit fee shall be Fifty Dollars (\$50).

(4) Class B Winery Permit. A Class B Winery Permit shall authorize the owner thereof to:

(a). Manufacture, bottle, package, label, and sell wine from grapes, fruits, and berries grown on the permit holder's own premises only and containing not more than twenty-four (24) per centum of alcohol by volume;

(b). Manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

(c). Sell same in this State to any permit holder authorized to sell the same and to the ultimate consumer in unbroken packages for off-premises consumption;

(d). Sell same to authorized persons out of State.

Such permit to be granted only upon presentation of a "Winemaker's and Blender's Basic Permit" of the Federal Alcohol Administration.

The annual fee shall be Ten Dollars (\$10).

(5). Rectifier's Permit. A Rectifier's Permit shall authorize the holder thereof to:

(a). Rectify, purify, and refine distilled spirits and wines other than vermouth by any process other than as provided for on distillery premises;

- (b). Mix wines, distilled spirits, or other liquors;
- (c). Bottle, label, package, and sell his finished products;
- (d). Sell same in this State to wholesale permit holders only;
- (e). Sell same out of State to qualified persons;
- (f). Import distilled spirits for rectification purposes but not for resale.

The annual permit fee shall be One Thousand Dollars (\$1,000).

(6). Wholesaler's Permit. A Wholesaler's Permit shall authorize the holder thereof to:

(a). Purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers, manufacturers, and their agents and purchase from other wholesalers within the State;

(b). Sell liquor in original containers in which received in this State to retailers and wholesalers authorized to sell same;

(c). Sell liquor out of State to qualified persons;

(d). It is provided that a person applying for a wholesaler's permit shall be authorized to include in a single application his petition for such permit, as well as for private storage, storage in a public bonded warehouse, and private carrier's permit, and any other permit which he is qualified to receive under the provisions of this Act. Provided, however, that such wholesaler shall pay the fees prescribed by this Act for each such permit covered in such wholesaler's application. This same subdivision shall apply to a Class B Wholesaler's, Rectifier's, Brewer's, Distiller's, Class A Winery, and Class B Winery Permits.

The annual fee shall be One Thousand, Two Hundred and Fifty Dollars (\$1,250).

(7). Class B Wholesaler. A Class B Wholesaler's Permit shall authorize the holder thereof to:

(a). Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and bottlers, and purchase from other wholesalers within the State;

(b). Sell same in original containers in which received in this State to retailers and wholesalers authorized to sell same;

(c). Sell same out of State to qualified persons.

The annual fee shall be Two Hundred Dollars (\$200).

(8). Package Store Permit. A package store permit shall authorize the holder thereof to:

(a). Purchase liquor from the holders in this State of Winery, Wholesaler's, Class B Wholesaler's, and Wine Bottler's Permits;

(b). Sell on or from licensed premises at retail to consumer for off-premises consumption only and in unbroken packages and unbroken containers only;

(c). Sell malt and vinous liquors in original containers of not less than six (6) ounces;

(d). Sell vinous liquors but in quantities of not more than five (5) gallons in original containers in any single transaction;

(e). Any person holding more than one package store permit may designate one of the licensed premises as the place for storage of liquor and he shall be privileged to transfer liquor from such storage to his other licensed premises under such rules as shall be prescribed by the Board.

The annual fee for a package store in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$ 125.00
25,001 to 75,000	175.00
75,001 or more	250.00

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

The annual fee for a package store outside of cities and towns shall be One Hundred Twenty-five (\$125.00) Dollars, except the annual fee for a package store outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town.

The annual fee for a package store to sell wine only in cities and towns shall be based on population according to the last preceding Federal Census as follows:

Population	Fee
2,000 or less	\$ 5.00
2,001 to 5,000	7.50
5,001 to 10,000	10.00
10,000 or more	12.50

The annual fee for a package store to sell wine only outside of cities and towns shall be Five (\$5.00) Dollars. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 1.]

Effective Sept. 1, 1937.

For distribution of other sections of this Act, see Tables. Section 21 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

(9). Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

(a). Represent any person who is authorized to sell liquor other than a retailer;

(b). Solicit and take orders for the sale of liquor from any authorized permit holder;

(c). Carry samples of liquor in containers not less than one-half ($\frac{1}{2}$) pint.

Any person acting as agent or salesman for the sale of or for taking or soliciting orders for the sale of any liquor irrespective of whether such sale is to be made within or without the State is required to procure an agent's permit. It is not intended that this shall apply to the employee of a permit holder who sells liquor and who remains on the licensed premises in making such sale.

The annual fee for such permit shall be Five Dollars (\$5).

(10). Industrial Permit. No other provisions of this Act shall apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes. Industrial permits may be issued to persons desiring to import, transport, and use alcohol for use in the manufacturing and sale of any of the following, tax-free:

(1). Denatured alcohol;

(2). Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

(3). Flavoring extracts, syrups, condiments, and food products;

(4). Scientific, chemical, mechanical, industrial, and medicinal products and purposes.

It shall be unlawful for any person to knowingly sell any of the products enumerated in paragraphs (1), (2), (3), and (4) for beverage purposes or to sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

It shall be unlawful for any person to purchase, transport, or use alcohol for any purpose enumerated in this Section unless and until he shall have secured an industrial permit. It is provided however that the following are exempt from procuring such permit:

- (a). Druggists or pharmacists in the filling of prescriptions issued by a physician in the legitimate practice of medicine;
- (b). All State institutions;
- (c). All bona fide or chartered schools, colleges, or universities for scientific or laboratory use;
- (d). All hospitals, sanatoria, or other bona fide institutions for the treatment of the sick;
- (e). Persons who purchase, sell, or possess denatured alcohol after the same has been produced and so long as it retains its identity as such.

The annual fee for an Industrial Permit shall be Ten Dollars (\$10).

(11). Carrier Permit. The word carrier when used in this Section shall mean and include water carriers, airplane lines, all steam, electric, and motor power railway carriers, and common carrier motor carriers operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas or such certificates issued by the Interstate Commerce Commission. The holder of such certificates shall be authorized to transport liquor into and out of this State and between points within this State. Such carriers shall furnish such information concerning the transportation of liquor as may be required by the Board. The restrictions contained in this Section shall not apply when in the course of an interstate or foreign shipment of liquor it is necessary to cross the State in the course of such transportation.

The annual fee shall be Five Dollars (\$5).

(12). Private Carrier Permit. Brewers, distillers, wineries, rectifiers, wholesalers, Class B wholesalers, and wine bottlers permittees shall be entitled to transport liquor from the place of sale or distribution to the purchaser, upon vehicles owned in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a private carrier permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the State by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit.

The annual fee for such permit shall be Five (\$5.00) Dollars. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 2.]

Effective Sept. 1, 1937.

(13). Local Cartage Permit. The Board is hereby authorized to issue Local Cartage Permits to warehouse or transfer companies desiring to transport liquor for hire within the corporate limits of any city or town within this State. It shall be unlawful for any person to transport liquor for hire within any city or town unless and until he shall have secured such permit or to transport the same in violation of the motor carrier laws of this State. In the case of local cartage, liquors shall not be transported by the holder of such Local Cartage Permit unless and until a description of each vehicle used in such transportation shall be furnished as may be required by the Board; and each

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

such vehicle shall be plainly marked or lettered in such manner as to plainly indicate that such vehicle is being used for the transportation of liquors by the holder of a Local Cartage Permit. The transportation of liquor by the holder of a Local Cartage Permit in any vehicle not so described and marked shall be unlawful and shall constitute grounds for the cancellation of such permit. It shall be unlawful for the holder of a Local Cartage Permit to transport liquor for hire between incorporated cities or towns in this State unless and until he shall have fully complied with the requirements of the motor carrier laws of this State governing the issuance of "carrier" permits.

The annual fee for Local Cartage Permits shall be Five Dollars (\$5).

(14). Bonded Warehouse Permits. A public bonded warehouse not located in dry area and which derives at least fifty (50) per cent of its gross revenue in a bona fide manner during a period of each three (3) months from the storage of goods or merchandise other than liquors shall be qualified to obtain and hold a Bonded Warehouse Permit. Such permit shall authorize the holder thereof to store liquors for any permittee who holds a permit to store in such public bonded warehouse. The holder of Bonded Warehouse Permits shall furnish such information concerning the liquor stored and withdrawn as may be required by the Board.

The annual fee for such permits shall be One Hundred Dollars (\$100).

(15). Storage Permit. The holders of brewery, distillery, winery, rectifier, wholesaler, wine bottler, and Class B Wholesaler permits shall be authorized to procure Storage Permits. Storage Permits may be issued to store in a public bonded warehouse for which a permit has been issued as well as to store in private warehouses owned and operated by the applicant. A permit must be procured for each place of storage. No Storage Permit shall be granted in a dry area. No permit need be procured by the above named permit holders for the storage of stock in trade kept on the licensed premises. No additional fee shall be paid for storage permits.

(16). Wine and Beer Retailer's Permit. The Board is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off the premises where sold, but not for resale, vinous and malt beverages containing alcohol in excess of one-half of one per cent by volume and not more than fourteen (14) per cent of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II¹ of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and upon the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22,² Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell may be sold with the same restrictions as provided in Article II governing the sale of beer, as to prohibited hours, local restrictions, age of employees, installation or maintenance of barriers or blinds in openings or doors, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Beer Dealers in Section 15³ of Article II of this Act. For the violation of any applicable provisions of Article II, the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act

the holders of such permits shall be subject to penalties provided in Article I⁴ of this Act.

The annual fee for such a permit shall be Thirty (\$30.00) Dollars and shall be distributed in the manner provided for the distribution of fees derived under Article II of this Act; provided, however, that a Wine and Beer Retailer's Permit may be issued for a railway dining, buffet, or club car upon payment of a fee of Five (\$5.00) Dollars for each car; provided, however, that application therefor and the payment of fee shall be made direct to the Board; and provided further that any such permit for a railway dining, buffet, or club car shall be inoperative in any dry area as the same is defined in this Act. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 3.]

¹ Article 667—1 et seq.

² Article 667—22.

³ Article 667—15.

⁴ Article 666—1 et seq.

Effective Sept. 1, 1937.

(17). Wine Bottler's Permit. A Wine Bottler's Permit shall authorize the holder thereof to:

- (a). Purchase and import wine;
- (b). Bottle, re-bottle, label, package, and sell wine to permit holders in this State authorized to purchase and sell the same;
- (c). Sell same to qualified persons out of the State;
- (d). Withdraw wine from a container without State tax stamps and transfer the same to other containers, and affix the State tax stamps to such containers before making a sale.
- (e). Keep a permanent record of every purchase and sale, showing the name of the person bought from and sold to, the gallonage and the per centum of alcohol by volume.

The annual permit fee shall be One Hundred and Fifty Dollars (\$150).

(18). Medicinal Permits. Retail Pharmacists shall be entitled to receive medicinal permits and sell or dispense liquor for medicinal purposes only. The holders of such permits are authorized to purchase liquor from holders of wholesaler's permits in this State. Any pharmacy for which a permit is sought must be a bona fide pharmacy registered with the State Board of Pharmacy; must employ and have on duty at all times a registered pharmacist and must have been in operation as a pharmacy for at least two (2) years in the particular political subdivision in which a permit is sought.

It shall be unlawful for any holder of a medicinal permit, his agents, servants, or employees to sell or dispense any liquor except upon a prescription issued by a physician licensed to practice medicine in this State.

It shall be unlawful for any physician who is not licensed to practice medicine for the care and treatment of human ailments in this State to prescribe liquor as medicine for any person.

It shall be unlawful for any physician to prescribe liquor for any person, and for any person to sell or dispense liquor under a prescription for any other than medicinal purposes.

It shall be unlawful for any person to sell or deliver any liquor from the premises for which a Medicinal Permit has been issued, unless the person making such sale or delivery shall have physical possession of the prescription for such liquor.

It shall be unlawful for any physician to prescribe more than one pint of liquor to any person in any one day.

Prescriptions for liquor must be signed by the physician and must bear the date of issuance, the name and address of the patient, and the directions for use. The permittee, who fills a prescription for liquor,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

is charged with the duty of preserving such prescription for a period of at least two (2) years and the same shall be open for inspection at any time upon request by any authorized representative of the Board. All Medicinal Permit holders shall make and keep such other records as may be required by the Board, relative to receipts and sales of liquor. It is specifically provided that only the holders of Medicinal Permits are authorized to sell and dispense liquor for medicinal purposes. It shall be unlawful for any pharmacist to knowingly fill a liquor prescription bearing a fictitious name, for anyone.

The annual permit fee for a Medicinal Permit to pharmacies in dry areas shall be Fifty Dollars (\$50) and in wet areas the annual fee shall be the same as the annual fee for a package store.

Medicinal Permits may also be issued by the Board to hospitals, sanatoria, and like institutions for the care and treatment of the sick. The holders of such permits are authorized to purchase liquor from holders of wholesaler's permits in this State, and such hospitals, sanatoria, and other like institutions may sell or dispense the same for medicinal purposes only. The holders of such permits may dispense medicinal liquor at any time but only to patients or inmates confined or under treatment therein, but in no event except under the direction of licensed physicians. The annual fee for hospitals, sanatoria, and like institutions shall be One Dollar (\$1) regardless of when issued and no bond shall be required.

It shall be unlawful for any pharmacist, owner, or operator of a pharmacy holding a medicinal permit to employ or compensate in any manner any physician in this State for writing a prescription for medicinal liquor. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15, as amended Acts 1937, 45th Leg., H.B. # 5, § 16.]

¹ Article 667—16 of this title.

Effective September 1, 1937.

[Art. 666—15a. Sacramental wine]

Nothing in this Act shall be construed as limiting the right of any minister, priest, or rabbi, or religious organization from obtaining sacramental wine for sacramental purposes only, directly from any lawful source whatsoever, whether from within the limits of the State of Texas or from outside the State; nor shall any fee or tax be charged, directly or indirectly, for the exercise of this right. The Board shall have the power and authority to make rules and regulations concerning the importing of any such wine, for the purpose of preventing any unlawful use of such right. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15a, as amended Acts 1937, 45th Leg., H.B. # 5, § 20½.]

Effective September 1, 1937.

For section 15a as added to Article I of 5, § 17, see art. 666—15a1, post, and Acts 1935 by Acts 1937, 45th Leg., H.B. # note.

Art. 666—15a1. Commissioners Courts and cities and towns authorized to levy fee on certain permittees; permits displayed; penalty

Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining, buffet, or club cars, and Class "B" Winery Permits, the Commissioners Court of each county in this State shall have the power to levy and collect from every person that may be issued a permit hereunder in said county a fee equal to one-half of the State fee; and the city or town wherein the permittee is domiciled shall have the power to levy and collect a fee not to exceed one-half of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing

the levying, assessing, and collecting of general ad valorem taxes on the property of said persons. All permits shall be displayed in a conspicuous place at all times on the licensed premises. Any permittee or licensee who engaged in the sale of any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200). [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15a1, as added Acts 1937, 45th Leg., H.B. # 5, § 17.]

Effective September 1, 1937.

Section 17 of the Acts of 1937, cited to the text, purports to amend Article I of Acts 1935, cited to the text, "by adding thereto a new section to be known as

Section 15(a)." However, as such Article I already contains a section 15a, which appears as art. 666—15a of this title, the new section is set out as art. 666—15a1 of this title.

Art. 666—15b. Fees payable in advance for year; exceptions; computation of time; separate outlets; refunds

All permit fees levied by this Act except Wine and Beer Retailer's Permits issued to other than railway dining, buffet, or club cars shall be paid in advance for one year unless such fee be collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of the permit to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in this State. No refund of permit fees shall for any reason be made by the Board unless the owner thereof is prevented from continuing in business by reason of the result of a local option election. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15b, as added Acts 1937, 45th Leg., H.B. # 5, § 18.]

Effective September 1, 1937.

Art. 666—15c. Application for permits other than wine and beer retailer's permits

(2). All applications for permits and licenses as provided in this Act shall be sworn to before any person who is authorized by law to administer an oath. All applications for permits for the year beginning September 1, 1937, and succeeding years shall be made on forms furnished by the Board. Such forms shall require of each applicant all information demanded by the provisions of this Act. For succeeding permit years, the Board is authorized to grant permits to applicants, who were permit holders for the previous period or a part thereof, upon filing with the Board a statement in affidavit form, that the facts and representations in the application on file are true and correct; provided however, that the Board or administrator shall have the power to require any other additional information. Forms for such affidavit shall be furnished by the Board. For succeeding permit years, after the one beginning September 1, 1937, any applicant for a permit who is privileged to procure a permit upon filing of the affidavit as hereinbefore set out, shall not be required to again publish notices as is required of original applicants, but upon payment of the proper fee and the filing of the proper bond and affidavit, the Board is authorized to issue such permit. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15c, as added Acts 1937, 45th Leg., H.B. #5, § 19; amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 4.]

Effective Sept. 1, 1937.

Art. 666—15d. Loss of permit; duplicate or corrected permit; sworn statement of corporate stock ownership; penalty

In case of loss or destruction of a permit or in case it is necessary to make any change in any such permit the Board is authorized to issue a duplicate or corrected permit. The Board shall have the power and authority to require at any time any officers or officer of a corporation, holding a permit or license under either Article I¹ or Article II² of this Act, to file a sworn statement showing the actual owners of its corporation stock, the amount of stock owned by each, the officers of such corporation, and all information concerning the qualifications of such officers and of the actual owners of such stock. Any person making any false statement therein shall be deemed guilty of perjury and punished as provided in this Act. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15d, as added Acts 1937, 45th Leg., H.B. # 5, § 20.]

¹ Articles 666—1 et seq.

² Article 667—1 et seq.

Effective September 1, 1937.

[Art. 666—16. Surety company bonds required; amount]

All bonds required by this Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits, except carriers and wine and beer retailers, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceeding Twenty-five Thousand Dollars (\$25,000).

The Board in its discretion may fix the amount of bond which shall be required for each class of permittees. All bonds required of permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this State relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules or regulations of the Board, and in the case of such permittees as are required to account for taxes and fees that such permittees will account for and pay all permit fees and taxes levied by this Act. All bonds required of permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 16, as amended Acts 1937, 45th Leg., H.B. # 5, § 21.]

Effective September 1, 1937.

Art. 666—17. Unlawful acts of permittees and others enumerated

(1). It shall be unlawful for any person holding a package store permit, or owning an interest in a package store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof.

(2). It shall be unlawful for any person to hold or have an interest in more than five (5) package stores or the business thereof. It shall further be unlawful for any person to hold or have an interest in more than five (5) package store permits.

(3). It shall be unlawful for any person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, winery, or wine bottler, or any agent, servant, or employee:

(a). to own or have an interest, directly or indirectly, in the business, premises, equipment, or fixtures of any retailer;

(b). to furnish, give, or lend any money, service, or other things of value, or to extend unusual credit terms to any retailer, or to any person, for the use, benefit, or relief of such retailer, or to guarantee the fulfillment of any financial obligation of any retailer;

(c). to make or enter or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

(d). to furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to any retailer;

(e). to pay or make any allowances to any retailer for a special advertising or distribution service, or to allow any excessive discounts;

(f). to offer any prize, premium, gift, or other similar inducement to any retailer or consumer.

(4). It shall be unlawful for any person operating under a permit under Article I¹ of this Act to refuse to allow the Board, or any authorized representative of said Board, or any peace officer upon request to make a full inspection or investigation of the licensed premises. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 5.]

¹ Article 666—1 et seq.
Effective Sept. 1, 1937.

(5). It shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting, or dispensing any liquor unless otherwise provided.

(6). It shall be unlawful for any person who holds a permit under Article I¹ of this Act to contribute any money or any thing of value toward the campaign expenses of any candidate for any office in this State. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 6.]

¹ Article 666—1 et seq.
Effective Sept. 1, 1937.

(7). It shall be unlawful for any person to possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of container whereon the State tax stamp has not been mutilated or defaced.

(8). It shall be unlawful for any person to break or open any container containing liquor at, on, or near the premises of a package store.

(9). It shall be unlawful for any person to sell, barter, exchange, deliver, or give away any drink or drinks of liquor to any person from a package or container that has for any reason been opened or broken at, on, or near the premises of a package store.

(10). It shall be unlawful for any person to fail or refuse to comply with any requirement of this Act or with any valid rule and regulation of the Board.

(11). It shall be unlawful for any person, directly or indirectly, to be interested in, connected with, or be a party to a consignment sale as herein defined.

(12). It shall be unlawful for any person to have in his possession or transport in this State any illicit beverage.

(13). It shall be unlawful for any person to import, sell, offer for sale, barter, exchange, or possess for the purpose of sale any liquor the container of which contains less than one-half pint; provided, however, that in the case of malt or vinous liquors a six (6) ounce container shall be the minimum.

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(14). It shall be unlawful for any person to have curtains, hangings, signs, or any other obstruction which prevents a clear view of the interior of any package store; provided, however, that this shall not apply to a drug store which holds a package store permit so as to prevent the display of drug merchandise.

(15). It shall be unlawful for any person to sell or offer to sell any alcoholic beverage that shall have been authorized by any permit or license held by him after notice of cancellation or suspension of such permit or license by the Board shall have been given.

(16). It shall be unlawful for any carrier to import into this State and deliver any liquor to any person not authorized to import the same, or to transport and deliver liquor to any person in a dry area in this State, unless the same be for a lawful purpose as provided in this Act.

(17). It shall be unlawful for any person to manufacture, import, sell, or possess for the purpose of sale any alcoholic beverage made from dried grapes, dried fruits, and dried berries or any compounds made from synthetic materials, concentrate of wines, or substandard wines. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 17, as added Acts 1937, 45th Leg., H.B. # 5, § 22.]

Effective September 1, 1937.

Leg., H.B. # 5, § 47.

Section 17 of Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, originally incorporated in this article, was repealed, effective Sept. 1, 1937, by Acts 1937, 45th

A new section designated 17 was added to Acts 1935, by Acts 1937, 45th Leg., H. B. # 5, § 22.

Art. 666—17a. Possession of equipment or material for manufacturing illicit beverages; false statement in application for permit or license; perjury

(1). It shall be unlawful for any person to have in his possession any equipment or material designed for, capable of use for, or used in the manufacturing of any illicit beverage. ✓

(2). Any person who makes any false statement or representation in his application for a permit or license, or in any statement, report, or other instrument to be filed with the Board, which is required to be sworn to, shall be deemed guilty of perjury and his punishment fixed as prescribed for such offense in Article 308 of the Penal Code, 1925. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 17a, as added Acts 1937, 45th Leg., H.B. # 5, § 23.]

Effective September 1, 1937.

Leg., H.B. # 5, § 47.

Section 17a of Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, originally incorporated in this article, was repealed effective Sept. 1, 1937, by Acts 1937, 45th

A new section designated 17a was added to Acts 1935, by Acts 1937, 45th Leg., H.B. # 5, § 23.

Art. 666—19. Cancellation or suspension of permit on conviction; suit on bond; liability of surety

If a person has been finally convicted in any Court for the violation of any provision of this Act or of any rule and regulation of the Board, the Board or Administrator may cancel or suspend any permit which he may hold or in which he may have an interest and no appeal from such action shall be allowed.

When any person who holds a permit or who has an interest in a permit shall be finally convicted for the violation of any provision of this Act or of any rule and regulation of the Board, or if his permit or a permit in which he has an interest has been cancelled by the Board or Administrator and no appeal is pending, the Board may in its own name institute action upon the bond supporting such permit for the

benefit of the State. Upon proof of such conviction or cancellation of the permit, the Court before whom such suit is brought shall render judgment in favor of the Board for all fines, costs, and fifteen (15) per centum of the face value of the bond.

If any permittee shall fail to remit seasonably any money due the State, the surety on his bond shall be liable for all such taxes or money due the State and in addition thereto a penalty of fifteen (15) per centum of the face value of the bond. Suits for the collection of any of the amounts herein specified shall be brought in any Court of competent jurisdiction of Travis County, Texas.

Nothing in this Act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery or recoveries as the case may be.

The surety may terminate its liability under such bond by giving thirty (30) days' written notice thereof, served either personally or by registered mail, to the principal and to the Board; and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of the principal occurring after the expiration of thirty (30) days from the date of service of such notice. Unless on or before the expiration of such period, the principal shall duly file a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the permit of the principal shall likewise terminate upon the expiration of such period. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 19, as amended Acts 1937, 45th Leg., H.B. # 5, § 24.]

Effective September 1, 1937.

Art. 666—20. Searches and seizures

A search warrant may issue under Title 6 of the Code of Criminal Procedure¹ for the purpose of searching for, seizing, and destroying any alcoholic beverage possessed, sold, transported, manufactured, kept, or stored in violation of the provisions of this Act; for the purpose of searching for and seizing any equipment and instrumentality used for, capable of use for, or designed for use in the manufacturing of any illicit beverage or any vehicle or instrumentality used or to be used for the illegal transportation or storage of any illicit beverage, unlawful equipment, or materials used or to be used in the illegal manufacturing of any illicit beverage and for the purpose of searching for and seizing any forged or counterfeit stamp, die, plate, official signature, certificate, evidence of tax payment, license, or other instrument pertaining to this Act, or any instrumentality, or equipment, or parts thereof used or to be used, designed, or capable of use for the manufacturing, printing, etching, inditing, or any other way bringing into existence any forged or counterfeit stamp, die, plate, certificate, official signature, evidence of tax payment, permit, license, or any other instrument pertaining to this Act.

Search warrants may be issued by any magistrate upon the affidavit of a credible person, setting forth the name or description of the owner or person in charge of the premises to be searched, or stating that his name and description are unknown, the address or description of the premises, and showing that the described premise is a place where some specified phase or phases of this Act are violated or are being violated. If the place to be searched is a private dwelling occupied as such and no part thereof is used as a store, shop, hotel, boarding house, or any purpose other than a private residence such affidavit shall be made by two (2) credible persons.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Except as herein provided the application, issuance, and execution of any such warrant and all proceedings relative thereto shall conform as near as may be to the provisions of Title 6 of the Code of Criminal Procedure.

All such alcoholic beverages and articles shall be seized by the officer executing the warrant and shall not be taken from the custody of any officer by writ of replevin nor any other process but shall be held by such officer to await final judgment in the proceedings. It is not intended by the provisions of this Section that a search warrant shall be required for any peace officer or any agent, representative, or inspector of the Board to search any premise covered by any permit or license under the provisions of this Act. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 20, as added Acts 1937, 45th Leg., H.B. #5, § 25.]

¹ Articles 304-332.

Effective September 1, 1937.

Section 20 of Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, originally incorporated in this article, was repealed, effective Sept. 1, 1937, by Acts 1937, 45th Leg., H.B. # 5, § 47.

A new section designated 20 was added to Acts 1935, by Acts 1937, 45th Leg., H.B. # 5, § 25.

[Art. 666—21. Fees and taxes]

There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act the following:

(a). A tax of Ninety-six (96) Cents per gallon on each gallon of distilled spirits, provided the minimum tax on any package of distilled spirits shall be Six (6) Cents.

(b). A tax of Ten (10) Cents on each gallon of vinous liquor that does not contain over fourteen (14) per cent of alcohol by volume.

(c). A tax of Twenty (20) Cents on each gallon of vinous liquor containing more than fourteen (14) per cent and not more than twenty-four (24) per cent of alcohol by volume.

(d). A tax of Twenty-five (25) Cents on each gallon of artificially carbonated and natural sparkling vinous liquor.

(e). A tax of Fifty (50) Cents on each gallon of vinous liquor containing alcohol in excess of twenty-four (24) per cent by volume.

(f). A tax of Fifteen (15) Cents on each gallon of malt liquor containing alcohol in excess of four (4) per cent by weight.

The term "first sale" as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act; provided however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container. In the case of wines, the stamp shall be affixed to every container intended to be

sold as an unbroken package to the ultimate customer. And no wine shall be sold for consumption on the premises of a person holding a Wine and Beer Retailer's Permit except from a container having the State tax Stamp affixed thereto. And any person, persons or association who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and furnish such information and such reports as may be required by rules and regulations of the Board. Any person authorized to export liquor from this State having in his possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of Twenty-five (25) Cents shall be made for every such stamp, except that a charge of Ten (10) Cents shall be made for each such stamp placed on vinous or malt liquors of twenty-four (24) per cent alcoholic content or less. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors within twenty-four (24) hours after such liquors have been removed from their place of business. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 21, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 3; Acts 1937, 45th Leg., H.B. # 5, § 26.]

Effective September 1, 1937.

[Art. 666—21a. Stamps; issuance]

Stamps for spirituous liquor shall be issued only in multiples of the rate assessed for each half-pint; stamps for wine shall be issued only in multiples of the rate assessed for each quart; stamps for malt liquors containing alcohol in excess of four (4) per cent by weight shall be issued in multiples of the rate assessed for each twelve (12) fluid ounces; provided that where any such liquors are contained in containers of one-fifth of a gallon, stamps shall be issued therefor at the assessed rate for each such type of liquor; and provided further, that where any such distilled spirits are contained in containers of one-tenth of a gallon, stamps shall be issued therefor at the assessed rate for each such type of distilled spirits. It is further provided that the taxes herein levied and assessed shall be paid and collected by stamps as provided in this Section. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 21a, as amended Acts 1937, 45th Leg., H.B. # 5, § 27.]

Effective September 1, 1937.

Art. 666—21b. Rules and regulations designating persons permitted to purchase stamps

The Board shall by rule and regulation designate such permit holders or persons who shall be lawfully entitled to purchase State tax stamps. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 21b, as added Acts 1937, 45th Leg., H.B. # 5, § 28.]

Effective September 1, 1937.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 666—21c. Records of production, receipt of liquor, sales, and stamps used by permittee; false entries

Each holder of a permit under Article I¹ of this Act who distills, rectifies, manufactures or receives any liquor shall make and keep a record of each day's production or receipt of liquor, the amount of tax stamps purchased by him, and each such permit holder other than a retailer shall make and keep a record of each and every sale of liquor and to whom such sale is made. Entry of each such transaction shall be made on the day it occurs. All such permittees shall make and keep such other records as may be required by rule and regulation of the Board. All records which permittees are required to make shall be kept available for the inspection of the Board or its authorized representatives for a period of at least two years.

It shall be unlawful for any person to fail or refuse to make and keep for a period of at least two years any record required in this section, or to fail or refuse to keep such records open for inspection to the Board or its duly authorized representatives during reasonable office hours.

It shall further be unlawful for any person knowingly with intent to defraud to make or cause to be made any false entry in any records required in this section or with like intent to alter or cause to be altered any item in said records. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 21c, as added Acts 1937, 45th Leg., H.B. #5, § 29, as amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 7.]

¹ Article 666—1 et seq.
Effective Sept. 1, 1937.

Art. 666—22. [Repealed by Acts 1937, 45th Leg., H.B. #5, § 47.]

Effective September 1, 1937.

[Art. 666—23. Dry and wet areas; definitions]

Whenever the term "dry area" is used in this Act it shall mean and refer to all counties, justice precincts, incorporated cities or towns wherein the sale of alcoholic beverages had been prohibited by valid local option elections held under the laws of the State in force at the time of the taking effect of Section 20, Article XVI, Constitution of Texas in the year 1919. It likewise shall mean and refer to any such areas where sale of such alcoholic beverages shall be prohibited under the terms of this Act.

The term "wet area" shall mean and refer to all other areas of the State.

As to any particular type of alcoholic beverage, each county, justice precinct, incorporated city or town within this State shall be deemed to be a "dry area" unless such political subdivision was a "wet area" at the time Section 20 of Article XVI of the Constitution became effective and has not since said time changed its status, or unless the sale of that particular type of alcoholic beverage has been legalized by local option election in such political subdivision since said time.

The term "wet area" shall be construed as including in each particular instance only alcoholic beverages of a type or alcoholic beverage not exceeding in alcoholic content that which have been legalized by a valid local option election in the prescribed area.

The trial Courts of this State shall take judicial knowledge of the status of wet and dry areas as herein defined in any criminal prosecution.

An allegation that any county or political subdivision as herein provided is a dry area as to any particular type of alcoholic beverage shall in law be deemed sufficient in any information, complaint, or indictment; provided, however, that a different status of such area may be

urged and proved as a defense. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 23, as amended Acts 1937, 45th Leg., H.B. # 5, § 30.]

Effective September 1, 1937.

Art. 666—23a. Transportation from wet area to wet area; importation of liquor for personal use; stamps; hotels authorized to hold package store permits; evidence

(1). It is provided that any person who purchases alcoholic beverages for his own consumption may transport same from a place where the sale thereof is legal to a place where the possession thereof is legal.

(2). Possession of more than one quart of liquor in a dry area shall be prima facie evidence that it is possessed for the purpose of sale. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 9.]

Effective Sept. 1, 1937.

(3). It is provided that it shall be lawful for the holders of Carrier's and Private Carrier's Permits to transport liquor from one wet area to another wet area where in the course of such transportation it is necessary or convenient to cross a dry area.

(4). It is provided that any person may bring into this State not more than one quart of liquor for his own personal use; provided further, that he shall pay and affix thereto the required State tax stamps.

(5). It is further provided that any bona fide hotel shall be authorized to hold a Package Store Permit as well as a Wine and Beer Retailer's Permit and a Beer Retailer's License provided such businesses are completely and wholly segregated from each other. The Board is authorized to adopt rules and regulations to enforce this provision. It is further provided that a hotel holding a Package Store Permit may deliver liquor at retail in unbroken packages to the rooms of bona fide guests of such hotel for consumption in such rooms.

(6). Proof of the sale or delivery by any person holding a retailer's permit of more than three (3) gallons of distilled spirits to any person in a single or continuous transaction shall be prima facie evidence that the same is a sale at wholesale.

(7). Proof of the sale or delivery by any person holding a permit authorizing the sale of distilled spirits at wholesale of less than three (3) gallons of such distilled spirits in any single transaction shall be prima facie evidence that the same is a sale at retail.

(8). Upon a trial for a violation of any provision of either Article I² or Article II of this Act,³ a conviction may be had upon the uncorroborated testimony of an accomplice. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 23a, as added Acts 1937, 45th Leg., H.B. #5, § 31.]

¹ Article 666—26.

² Article 666—1 et seq.

³ Article 667—1 et seq.

Effective September 1, 1937.

Section 23a of Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, originally incor-

porated in this article was repealed, effective Sept. 1, 1937, by Acts 1937, 45th Leg., H.B. # 5, § 47.

A new section designated 23a was added to Acts 1935, by Acts 1937, 45th Leg., H.B. # 5, § 31.

[Art. 666—25. Sale regulations]

It shall be unlawful for any person to sell or deliver any liquor:

- (a). Between 12 o'clock midnight and 7 o'clock A. M. on any day;
- (b). On any general primary or general election day between the hours of 7:00 o'clock A. M. and 8:00 o'clock P. M.;
- (c). On Sundays. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 25, as amended Acts 1937, 45th Leg., H.B. # 5, § 32.]

Effective September 1, 1937.

*Legislature
Sept 1-26 1937*

Art. 666—25a. Regulations by Commissioners' Courts and by cities and towns

The Commissioners' Court of any county in the territory thereof outside incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of alcoholic beverages by any dealer where the place of business of any such dealer is within three hundred (300) feet of any church, public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in direct line across intersections where they occur. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 25a, as added Acts 1937, 45th Leg., H.B. #5, § 33, amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 10.]

Effective Sept. 1, 1937.

[Art. 666—26. Sale to minors, exceptions]

(a). It shall be unlawful to employ anyone to sell liquor who is under the age of twenty-one (21) years.

(b). It shall further be unlawful for any person to knowingly sell any liquor to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 26, as amended Acts 1937, 45th Leg., H.B. # 5, § 34.]

Effective September 1, 1937.

[Art. 666—27. Regulation of transportation]

(a). It shall be unlawful for any person to transport into this State or upon any public highway, street, or alley in this State any liquor unless the person accompanying or in charge of such shipment shall have present and available for exhibition and inspection, a written statement furnished and signed by the shipper, showing the name and address of the consignor and the consignee, the origin and destination of such shipment, and such other information as may be required by rule and regulation of the Board. It shall be the duty of the person in charge of such shipment while the same is being transported, to exhibit such written statement to the Board or any of its authorized representatives or to any peace officer making demand therefor, and it shall be unlawful for any person to fail or refuse to exhibit the same upon such demand. Such written statement shall be accepted by such representative or officer as prima facie evidence of the lawful right to transport such liquor.

(b). It shall be unlawful for any brewer, distiller, winery, or manufacturer of any alcoholic beverage or manufacturer's agent, or any of the agents, servants, or employees thereof, to enter or offer to enter into any agreement, contract, arrangement, condition, or system, either orally or written, with any wholesaler or any other person in this State wherein or whereby any person is required, obligated, persuaded, influenced, or induced, or by the terms of which it is intended or calculated to require, obligate, persuade, influence, or induce any person to purchase, produce, obtain, require, or secure any certain volume or quota of business, more or less, of any one or more types, kinds, brands, or varieties of alcoholic beverages, whether the same be within any period of time, or within any area, or upon the fulfillment of any condition, attainment, provision, demand, or promise or to require, obligate, persuade, influence, or induce any person or attempt to require, obligate, persuade, influence, or induce any such person to sell any

alcoholic beverage in any manner contrary to law or in any manner calculated to induce a violation of the law. The Board or Administrator shall have the power and it shall be their duty to investigate such and if they find or have good reason to believe that the provisions set out in this Subsection have been or are being violated it shall be their duty to give notice of hearing to the affected parties in the manner as provided for other hearings. Upon the finding of facts by the Board or Administrator that any such person has violated or is violating any provisions hereof, an order shall be entered by the Board or Administrator prohibiting any such person or his agents to directly or indirectly ship into this State any of his goods or merchandise for a period not to exceed one year. It shall further be unlawful for any person to import into this State any alcoholic beverage of such person during the period of suspension as ordered by the Board or Administrator. Any alcoholic beverage so unlawfully transported or imported into this State is hereby declared to be an illicit beverage. The Board shall adopt all necessary rules to effectuate the purposes of this Section. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 27, as amended Acts 1937, 45th Leg., H.B. # 5, § 35.]

Effective September 1, 1937.

[Art. 666—28. Forgery or counterfeiting stamps, other instruments, etc.]

(1). Any person who shall forge or counterfeit any stamp as provided by this Act, or who shall print, engrave, make, issue, sell, circulate, or possess with intent to use, sell, circulate, or pass any forged or counterfeit stamp or who shall place or cause to be placed any such forged or counterfeit stamp on any container of alcoholic beverage shall be guilty of a felony.

(2). Any person who shall print, engrave, make, issue, sell, or circulate with intent to defraud or who shall knowingly possess any such forged or counterfeit permit, license, official signature, certificate, evidence of tax payment or other instrument shall be guilty of a felony.

(3). Any person who has in his possession any stamp, die, plate, device, machine, or any other instrument or parts thereof used, or designed for use for forging or counterfeiting any instrument set out in subdivisions (1) and (2) of this Section shall be guilty of a felony.

(4). The term "counterfeit" or "forged" as used in this Section shall apply to any stamp, permit, license, official signature, certificate, evidence of tax payment or any other instrument which has not been printed, manufactured, or made by, or under the direction of, or issued, sold or circulated by, the person or Board authorized to do so by the provisions of this Act.

(5). Upon conviction of any person under any provisions of this Section, his punishment shall be by confinement in the State penitentiary for any term of not less than two (2) years nor more than twenty (20) years.

(6). Conviction for any offense defined in this Section may be had upon the uncorroborated evidence of an accomplice. Any Court, officer, or tribunal having jurisdiction of any offense defined in this Section or any District or County Attorney may subpoena any person and compel his attendance as a witness to testify as to the violation of any provision of this Section. Any person so summoned and examined shall not be liable to prosecution for the violation of any provision of this Section about which he may testify. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 28, as amended Acts 1937, 45th Leg., H.B. # 5, § 36.]

Effective September 1, 1937.

Art. 666—30. Seizure of illicit beverages and illegal equipment; disposition

Any illicit beverage as that term is defined in this Act, and all illegal equipment for manufacturing any alcoholic beverages is hereby declared to be contraband and the same may be seized without warrant by the Board, or any one of its agents or employees or by any peace officer and any person found in the possession, or in charge thereof, may be arrested without warrant. All contraband alcoholic beverages so seized shall be turned over to either the sheriff of the county in which such seizure is made or to any authorized representative or agent of the Board.

The Board shall have the power and authority to assemble seizures of alcoholic beverages and concentrate them at a place in this State where the sale thereof will be deemed most advantageous.

All contraband alcoholic beverages remaining in the hands of a sheriff shall be sold by him at public auction to the highest bidder, after due notice of such sale has been posted for a period of at least ten (10) days, but no sale of liquor shall be made to any person unless he is a permittee who is privileged to have possession thereof. No delivery of liquor so sold shall be made to any permittee unless and until the proper State tax stamps have been purchased and affixed as required by this Act.

It is further provided that immediately after the sale as herein provided, no alcoholic beverage sold at public auction by a sheriff shall be delivered within a period of five (5) days after such sale during which time the Board may in its discretion reject any bids and order the liquor disposed of in any manner herein provided.

It is further provided however that in all such instances where alcoholic beverages are offered for sale at public auction the Board shall have the right and authority to bid thereon. In the event the Board is the highest bidder such alcoholic beverages shall be delivered to the Board after the payment of the expenses of the sale only and shall be sold by the Board as herein provided.

All alcoholic beverages which may come into the possession of the Board under the provisions of this Section may be sold by the Board at either public or private sale.

All illegal equipment shall be destroyed; provided, however, that such equipment which possesses any appreciable value shall be made incapable of further illegal use and may then be sold by the Board or Administrator at private sale.

All costs and expenses incidental to the seizure, sale, and assembling of all contraband illicit beverages and illegal equipment shall be deducted from the proceeds of the sale thereof.

The net proceeds from all sales as provided in this Section shall be placed in a separate fund by the Board and may be used from time to time for defraying such expenses, as may be necessary, for the investigation of and obtaining evidence for violations of the provisions of this Act. All money remaining in said fund on August 31st of each year shall be deposited with the State Treasurer for the benefit of the General Fund. The fund herein created is hereby appropriated and shall be independent of and in addition to any other appropriation which may be made for the use of the Board. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 30, as amended Acts 1937, 45th Leg., H.B. # 5, § 37.]

Effective September 1, 1937.

[Art. 666—31. Enforcement by peace officers]

It shall be the duty of all peace officers of this State, including city, county and State, to enforce all provisions of this Act and to assist the Board in detecting violations of this Act and apprehending offenders, and of county Courts in cases of violation to make recommendations to the Board for revocation of permits and licenses. Whenever any officer or representative of the Board shall arrest any person for violation of any provision of this Act or of any rule and regulations of the Board, he shall take into his possession all illicit beverages which the person so arrested has in his possession or on his premises. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 31, as amended, Acts 1937, 45th Leg., H.B. # 5, § 38.]

Effective September 1, 1937.

Art. 666—40. Local option elections; submission of issues

The Commissioners' Court upon its own motion may, or upon petition as herein provided shall, as provided in Section 32, Article I,¹ order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided shall be legalized or prohibited.

In areas where any type or classification of alcoholic beverages is prohibited and the issue or issues submitted pertain to legalization of the sale of one or more such prohibited types or classifications, one or more of the following issues shall be submitted:

(a). "For legalizing the sale of beer that does not contain alcohol in excess of four (4%) per centum by weight" and "Against legalizing the sale of beer that does not contain alcohol in excess of four (4%) per centum by weight."

(b). "For legalizing the sale of malt and vinous beverages that do not contain alcohol in excess of fourteen (14%) per centum by volume" and "Against legalizing the sale of malt and vinous beverages that do not contain alcohol in excess of fourteen (14%) per centum by volume."

(c). "For legalizing the sale of all alcoholic beverages" and "Against legalizing the sale of all alcoholic beverages."

In areas where the sale of all alcoholic beverages has been legalized one or more of the following issues shall be submitted in any prohibitory election:

(d). "For prohibiting the sale of all beverages that contain alcohol in excess of four (4%) per centum by weight" and "Against prohibiting the sale of all beverages that contain alcohol in excess of four (4%) per centum by weight."

(e). "For prohibiting the sale of all alcoholic beverages that contain alcohol in excess of fourteen (14%) per centum by volume" and "Against prohibiting the sale of all alcoholic beverages that contain alcohol in excess of fourteen (14%) per centum by volume."

(f). "For prohibiting the sale of all alcoholic beverages" and "Against prohibiting the sale of all alcoholic beverages."

In areas where the sale of beverages containing alcohol not in excess of fourteen (14%) per centum by volume has been legalized, and those of higher alcoholic content are prohibited, one or more of the following issues shall be submitted in any prohibitory election:

(g). "For prohibiting the sale of alcoholic beverages that contain alcohol in excess of four (4%) per centum by weight" and "Against prohibiting the sale of alcoholic beverages that contain alcohol in excess of four (4%) per centum by weight."

(h). "For prohibiting the sale of all alcoholic beverages" and "Against prohibiting the sale of all alcoholic beverages."

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

In areas where the sale of beer containing alcohol not exceeding four (4%) percentum by weight has been legalized and all other alcoholic beverages are prohibited, the following issue shall be submitted in any prohibitory election:

(i). "For prohibiting the sale of beer containing alcohol not exceeding four (4%) per centum by weight," and "Against prohibiting the sale of beer containing alcohol not exceeding four (4%) per centum by weight."

Where more than one issue is submitted on a single ballot no ballot shall be counted unless the voter shall vote upon each of the issues appearing on any such ballot; and each such ballot shall have printed thereon the words "This ballot will not be counted unless the voter shall vote upon each of the issues appearing hereon." [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 40, as amended Acts 1937, 45th Leg., H.B. #5, § 30a; Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 8.]

¹ Article 666—32.

Effective Sept. 1, 1937.

Art. 666—40a. Contest of election

At any time within thirty (30) days after the result of any local option election held pursuant to the provisions of the Texas Liquor Control Act has been declared, any qualified voter of the county, justice precinct or incorporated town or city of such county in which such election has been held, may contest the said election in the District Court of the county in which such election has been held, which shall have original and exclusive jurisdiction of all suits to contest such election, and the proceedings in such contest shall be conducted in the same manner, as now govern the contest of any general election, and said court shall have jurisdiction to try and determine all matters connected with said election, including the petition of such election and all proceedings and orders relating thereto, embracing final count and declaration and publication of the result putting local option into effect, and it shall have authority to determine questions relating to legality and validity of said elections, and to determine whether by the action or want of action on the part of the officers to whom was entrusted the control of such election, such a number of legal voters were denied the privilege of voting, as had they been allowed to vote, might have materially changed the result, and if it shall appear from the evidence that such irregularities existed in bringing about said election or in holding same, as to render the true result of the election impossible to be arrived at, or very doubtful of ascertaining, the court shall adjudge such election to be void, and shall order the proper officer to order another election to be held, and shall cause a certified copy of such judgment and order of the court to be delivered to such officer upon whom is devolved by law the duty of ordering such election. It is further provided that all such cases shall have precedence in the District Court and appellate courts, and that the result of such contest shall finally settle all questions relating to the validity of said election, and it shall not be permissible to again call the legality of said election in question in any other suit or proceeding; and provided further, that if no contest of said election is filed and prosecuted in the manner and within the time provided above, it shall be conclusively presumed that said election as held and the result thereof declared, are in all respects valid and binding upon all courts; provided also that pending such contest the enforcement of local option law in such territory shall not be suspended, and that all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Any qualified voter of any county, justice precinct, incorporated city or town within this State which has heretofore voted on local option may

contest said election under the provisions of this Act, and if no contest is filed within sixty (60) days from the taking effect of this Act, it shall be conclusively presumed that said election as held was valid in all things and binding upon all courts. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 40a, as added Acts 1937, 45th Leg., H.B. # 5, § 30a.]

Effective September 1, 1937.

Art. 666—41. Penalty for violations of act

Any person who violates any provision of Article I of this Act for which a specific penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one year. The term "specific penalty" as used in this Section means and refers only to a penalty which might be imposed as a result of a criminal prosecution. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 41, as amended, Acts 1937, 45th Leg., H.B. # 5, § 39.]

Effective September 1, 1937.

Art. 666—41a. Certified copies of judgment and of information to be furnished Board; certifying results of local option election; report as to status of wet and dry areas

It shall be the duty of the County Clerk of each county to furnish to the Texas Liquor Control Board or representative upon demand a certified copy of the Judgment of Conviction and a certified copy of the information against any permittee or licensee when such permittee or licensee has been convicted for the violation of any provision of this Act. Such certified copies shall be furnished the Board free of charge.

County Clerks are also charged with the duty to certify the results of any local option election to the Texas Liquor Control Board at Austin, Texas, within three (3) days after the Commissioners Court of such county has declared the results thereof.

On August 1st of each year it shall be the duty of each County Clerk to report to the Board at Austin, Texas, the exact status as to wet and dry areas of his county, specifying the status of the county as a whole and of each recognized political subdivision of the county. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 41a, as added, Acts 1937, 45th Leg., H.B. # 5, § 40.]

Effective September 1, 1937.

[Art. 666—42. Building or places used in violation as common nuisance]

Any room, house, building, boat, vehicle, structure, or place where any alcoholic beverage is manufactured, sold, kept, stored, bartered, or given away in violation of the laws of this State, and all alcoholic beverages, equipment, and property kept and used in maintaining the same is hereby declared to be a common nuisance and may be seized without warrant by any representative of the Board or any peace officer,

Any person who maintains or operates such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than One Thousand Dollars (\$1,000) or be imprisoned in the county jail for not more than one year, or both. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of alcoholic beverages contrary to the provisions of the laws of this State, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to a lien for and

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation and any such lien may be enforced by action in any Court having jurisdiction. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 42, as amended, Acts 1937, 45th Leg., H.B. # 5, § 41.]

Effective September 1, 1937.

Art. 666—43. [Repealed by Acts 1937, 45th Leg., H.B. #5, § 47.]

Effective September 1, 1937.

[Art. 666—44. Seizure of liquor and vehicle for illegal transportation]

It is further provided that if any wagon, buggy, automobile, water or air craft, or any other vehicle is used for the transportation of any illicit beverage or any equipment designed to be used for illegal manufacturing of illicit beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, such vehicle together with all such beverages, equipment, or material shall be seized without warrant by any representative of the Board or any peace officer who shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested and all principals, accomplices, and accessories to such unlawful act, under the provisions of law, in any Court having competent jurisdiction; but said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties in a sum double the appraised value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide judgment of the Court. The Court upon the conviction of the person so arrested shall order the alcoholic beverages disposed of as provided in this Act, and unless good cause to the contrary is shown by the owner, shall order the sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the seizure, and the costs of the sale, shall pay all liens, according to priorities, which are established by intervention or otherwise at said hearing or in other proceedings brought for said purpose, as being bona fide and as having been created without the lien or having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor and shall pay the balance of the proceeds to the Board to be allocated as permit fees. All liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken, or if there be no newspaper in such city or county, any newspaper having circulation in the county, once a week for two (2) weeks and by handbills posted in three (3) public places near the place of seizure, and if no claimant shall appear within ten (10) days after the publication of the advertisement, the property shall be sold and the proceeds after deducting the expenses and costs shall be paid to the Board to be allocated as permit fees. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 44, as amended, Acts 1937, 45th Leg., H.B. # 5, § 42.]

Effective September 1, 1937.

[Art. 666—45. Printing and sale of stamps]

(a). It shall be the duty of the Texas Liquor Control Board and the Board of Control to have engraved or printed all necessary liquor and

beer tax stamps as provided in both Article I¹ and II² of this Act. Such stamps shall be of such design and denomination as the Texas Liquor Control Board shall from time to time prescribe and shall show the amount of tax, the payment of which is evidenced thereby, and shall contain the words "Texas State Tax Paid." All contracts for stamps required by this Act shall be let by the Board of Control as provided by law. The Texas Liquor Control Board is authorized to expend all necessary funds from time to time to keep on hand an ample supply of such stamps.

(b). The State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. He shall sell same to such qualified persons as may be designated by the Board and to no other person. The Treasurer shall have power to designate any State or National Bank in this State as his agent to deliver and collect for any stamps and to remit the proceeds thereof to him. Invoices for liquor stamps shall be issued by the State Treasurer in triplicate and numbered consecutively. The original of such invoice shall be forwarded to the purchaser or to the person in whose care they may be sent for the benefit of a qualified purchaser, the duplicate to the Texas Liquor Control Board, and the triplicate shall be retained by the State Treasurer. The duplicate copies shall be transmitted daily to the Board in such manner and shall be accompanied by such statements as the Board may require. The State Treasurer shall make and keep a permanent record of all stamps received by him as well as all stamps sold. Such record shall provide a perpetual inventory of all stamps and the disposition thereof and shall at all times be available to the Board or its authorized representatives.

(c). The Board shall by rule and regulation prescribe the manner in which stamps shall be delivered by the State Treasurer to the Board for use and sale by its inspectors in charge of ports of entry.

(d). Refunds for stamps may be made by the Texas Liquor Control Board from the revenue of stamp sales before the same has been allocated. A refund may be made by the Board in all cases where stamped liquor is returned to the distillery or manufacturer upon a certification by an inspector of the Board who inspected the shipment. The Board may also make a refund to any person who was authorized to purchase stamps and who is in possession of unused stamps upon discontinuation of business. In either instance, it must be shown that the claimant for refund purchased the stamps, for which a refund is asked, from the State Treasurer. No other refunds shall be allowed. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 45, as amended, Acts 1937, 45th Leg., H.B. # 5, § 43.]

¹ Article 666—1 et seq.

² Article 667—1 et seq.

Effective September 1, 1937.

[Art. 666—46. Disposition of receipts]

Receipts from the sale of liquor stamps shall be deposited in the State Treasury as follows: One-fourth to the credit of the Available School Fund, and three-fourths to the credit of the Texas Old Age Assistance Fund. All revenues derived from the sale of permits provided for under Article I¹ shall be deposited to the credit of the Texas Old Age Assistance Fund. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 46, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 3c; Acts 1937, 45th Leg., H.B. # 5, § 44.]

¹ Article 666—1 et seq.

Effective September 1, 1937.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 666—47. Revolving fund for salaries and expenses

For the purpose of enabling the Board to perform all its duties, including the payment of salaries and all other necessary expenses, the Board is hereby authorized to set up a revolving fund in the sum of Fifty Thousand Dollars (\$50,000) to be taken out of revenues derived under the provisions of this Act, which said sum is hereby appropriated and shall be independent of and in addition to any appropriation which may be made. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 47, as amended, Acts 1937, 45th Leg., H.B. # 5, § 45.]

Effective September 1, 1937.

[Art. 666—48. Distribution of copies of act]

The Board is hereby authorized to have printed in pamphlet form for distribution such number of copies of the Texas Liquor Control Act, as amended hereby,¹ as may be deemed necessary. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 48, as amended Acts 1937, 45th Leg., H.B. # 5, § 46.]

¹ Articles 666—1 et seq. and 667—1 et seq.

Effective September 1, 1937.

Art. 666—50. [Repealed by Acts 1937, 45th Leg., H.B. #5, § 47.]

Effective September 1, 1937.

Prior to its repeal this article was Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467,

art. 1, § 50, as added Acts 1937, 45th Leg.,

H.B. # 432, § 1.

Art. 666—51. Saving clause

That the repeal or amendment of any Section or any portion of a Section of the Texas Liquor Control Act by the enactment of this bill shall not affect or impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such repeal or amendment shall take effect; but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents as if such Section, or part thereof, so repealed or amended had remained in force, except that where the course of practice or procedure for the enforcement of such right, or the conducting of such proceeding, suit, or prosecution shall be changed, the same shall be conducted as near as may be in accordance with this Act. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when any section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if such prior Statute, or part thereof, had not been repealed or amended, except that where the mode of procedure or matters of practice have been changed by this Act, the procedure had after this Act shall have taken effect in such prosecution or suit shall be, as far as practicable, in accordance with this Act. [Acts 1937, 45th Leg., H.B. # 5, § 48.]

Effective September 1, 1937.

II. MALT LIQUORS

Art. 667—1. Definitions

Where used in this Article unless expressly stated otherwise:

(a) The term "barrel" means, as a standard of measure, a quantity of beer equal to thirty-one (31) standard gallons.

(b) The term "beer" means a malt beverage containing one-half of one per cent or more of alcohol by volume and not more than four (4) per cent of alcohol by weight, and shall not be inclusive of any beverage designated by label or otherwise by any other name than beer.

(c) The term "Board" means the Texas Liquor Control Board.

(d) The term "container" means any container holding beer in quantities of one barrel, one-half barrel, one-quarter barrel, one-eighth barrel, or any bottle or can having a capacity of twelve (12) fluid ounces, twenty-four (24) fluid ounces, and thirty-two (32) fluid ounces, and no container of any other capacity shall be authorized.

(e) The term "licensee" means any holder of a license provided in this Article, whether acting as principal, agent, or employee.

(f) The term "manufacturer" means a person engaged in the manufacture or brewing of beer whether located within or without the State of Texas.

(g) The term "original package" means any container holding one barrel, one-half barrel, one-quarter barrel, or one-eighth barrel of beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

(h) The term "person" shall mean and refer to any natural person or association of natural persons, trustees, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 1, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, consisted of 23 sections which appeared as articles 667—1 to 667—22, including article 667—21a, of this title. Section 49 of the amendatory Act of 1937,

cited to the text, purports to amend art. 2 of the Act of 1935, cited to the text; "so as to hereafter read as follows," and then enacts 27 sections which are set out as arts. 667—1 to 667—27 of this title.

Art. 667—2. Where lawful to manufacture or sell beer

The manufacture, sale, distribution, and transportation of beer is hereby authorized within the State of Texas.

Unless otherwise herein specifically provided by the terms of this Act, the manufacture, sale, distribution, transportation, and possession of beer as herein defined shall be governed exclusively by the provisions of this Article. It shall be unlawful to manufacture, sell, barter, or exchange within this State any beverage containing alcohol in excess of one-half of one per cent by volume and not more than four (4) per cent of alcohol by weight except beer.

It shall continue to be unlawful to manufacture, sell, barter, or exchange in any county, justice precinct, or incorporated city or town any beer except in counties, justice precincts, or incorporated cities or towns wherein the voters thereof had not adopted prohibition by local option elections held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article 16 of the Constitution of Texas in 1919; except that in counties, justice precincts, or incorporated cities or towns wherein a majority of the voters have voted to legalize the sale of beer in accordance with the local option provisions of Chapter 116, Acts of the Regular Session of the Forty-third Legislature,¹ or in accordance with the local option provisions, sections 32 to 40, inclusive, of Article I, of House Bill No. 77, General Laws of Texas, Second Called Session of the Forty-fourth Legislature, or any amendments thereof,² beer as herein defined may be manufactured, distributed, and sold as herein provided.

It is hereby expressly provided that local option elections may be held in any county, justice precinct, or incorporated city or town with-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

in this State in accordance with the provisions of Sections 32 to 40, inclusive, of Article I of the Texas Liquor Control Act,² for the purpose of determining from time to time whether the sale of beer shall be prohibited or legalized within the prescribed limits; and it shall be unlawful to sell beer in any county, justice precinct, or incorporated city or town wherein the same shall be prohibited by local option election and lawful to sell beer under the provisions of this Act in any county, justice precinct, or incorporated city or town wherein the sale of beer shall be legalized by local option election. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 2, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

¹ Article 694a, now repealed.

² Articles 666—32 to 666—40.

Effective September 1, 1937.

Art. 667—3. License required

It shall be unlawful for any person to manufacture or brew for the purpose of sale or to import into this State, or to distribute, or sell any beer, or to possess any beer for the purpose of sale within this State without having first obtained appropriate license as herein provided, which license shall at all times be displayed in some conspicuous place within the licensed place of business:

(a) A manufacturer's license shall authorize the holder thereof to manufacture or brew beer and to distribute and sell same to others; and shall also authorize the holder to bottle, can, or pack into containers beer for resale to any place in this State to others, regardless of whether such beer is brewed in the State of Texas, or in any other State of the United States, and imported into Texas; provided that no beer shall be imported into this State except in accordance with the provisions of this Act, that is, in barrels or other containers, and shall at no time be shipped into this State in tank cars; provided that the Liquor Board shall have the same functions, powers, and duties to adopt and enforce a standard of quality, purity, and identity of malt beverages and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, purifying, bottling, and rebottling of beer under a manufacturer's license as apply to breweries located within the State of Texas. Every person, agent, receiver, trustee, firm, corporation, association, or co-partnership opening, establishing, operating, or maintaining one or more establishments under a manufacturer's license within this State under the same general management or ownership shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating, or maintaining such establishments. Each establishment bottling beer of the same brand or beer brewed by the same brewery shall be held to be under a common management and control, and shall be subjected to the license fees prescribed herein regardless of the nature of control or ownership of each separate establishment. The annual license fees herein prescribed shall be as follows:

1. Upon one (1) establishment the license fee shall be Five Hundred Dollars (\$500);

2. Upon each additional establishment in excess of one (1) but not to exceed two (2), the license fee shall be Ten Thousand Dollars (\$10,000);

3. Upon each additional establishment in excess of two (2), but not to exceed five (5), the license fee shall be Twenty-five Thousand Dollars (\$25,000);

4. Upon each additional establishment in excess of five (5), the license fee shall be Fifty Thousand Dollars (\$50,000).

The provisions of this Act shall be construed to apply to every person, agent, receiver, trustee, firm, corporation, co-partnership, or association, either domestic or foreign, which is controlled or held with others by majority stock ownership, or ultimately controlled or directed by one management or association of ultimate management.

(b) General Distributor's License: A General Distributor's License shall authorize the holder thereof to distribute or to sell beer to other General Distributors, Local Distributors, Retail Dealers, and others only in the unbroken original packages in which it is received by him from the manufacturer or other General Distributor, and not to be consumed on the premises where sold. Annual State fee for a General Distributor's License shall be Two Hundred Dollars (\$200).

(c) Local Distributor's License: A Local Distributor's License shall authorize the holder thereof to sell and distribute beer to Retail Dealers, ultimate consumers and others in the county of his residence only in the unbroken original packages in which it is received by him, not to be consumed on the premises where sold; and such sales may be made to other local distributors licensed to sell beer only in the county of the selling distributor's residence. Annual State fee for a Local Distributor's License shall be Fifty Dollars (\$50).

(d) Retail Dealer's On-Premise License: A Retail Dealer's On-Premise License shall authorize the holder thereof to sell beer, for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealer On-Premise License shall be Twenty-five Dollars (\$25).

(e) Retail Dealer's Off-Premise License: A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in bottles or other lawful container direct to the consumer, but not for resale, and not to be opened or consumed on the premises where sold. Annual State fee for a Retail Dealer Off-Premise License shall be Ten Dollars (\$10).

(f) Branch License: The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish a place of business in any other county for the distribution of beer upon obtaining a Branch License as herein provided. Any Branch License issued under the provisions of this Section shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch License shall be Fifty Dollars (\$50); provided, however, that the fee for any license required to terminate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Four Dollars and Twenty-five Cents (\$4.25) for each month or fraction thereof for which the license is issued.

To obtain a Branch License the applicant therefor shall present the primary license secured in the county of his residence to the Assessor and Collector of Taxes in such other county, together with the fee herein provided, and it shall be the duty forthwith of such Assessor and Collector of Taxes to certify to the Texas Liquor Control Board that such application has been made and the required fees paid, and such other information as the Board may require; and upon receiving such certificate and report from the Assessor and Collector of Taxes it shall be the duty of the Board or Administrator to issue the Branch License accordingly.

(g) The Commissioners Court in each county of this State shall have the power, except as herein otherwise provided as to Temporary Licens-

es, to levy and collect from every person licensed hereunder in said county a license fee equal to one-half of the State fee; and any incorporated city or town wherein the licensee is domiciled shall have the power to levy and collect a license fee not to exceed one-half of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of any person licensed to sell beer.

(h). The holder of a Manufacturer's License or a Distributor's License shall be authorized to maintain or engage necessary warehouses, for storage purposes only in areas where the sale of beer is lawful from which deliveries may be made without such warehouses being licensed, except when such a warehouse is a premise to which importations of beer are made from outside the State. Any warehouse in which sales orders for beer are taken or money therefor collected shall be deemed a separate place of business for which a license is required. The sale and delivery of beer from a truck of a licensed Manufacturer or Distributor to a licensed retail dealer at the latter's place of business shall not constitute such truck to be a separate place of business. The Board shall govern by rule and regulation, the transportation of such beer, the sale of which is to be consummated at the licensed Retailer's place of business. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 11.]

Effective Sept. 1, 1937.

(i) There is hereby provided a "Temporary License" authorizing the sale by a Retail Dealer of Beer for consumption on or off the premises where sold. The fee for such Temporary License shall be Five Dollars (\$5). Such licenses shall be issued by the Assessor and Collector of Taxes upon application approved by the County Judge, but no such permit shall be issued to any person who does not also hold a license as provided in Subsection (d) of this Section, and no such permit shall authorize the sale of beer at any point outside the county where same is issued. Any such Temporary License shall expire at the end of the fourth day after the date the same is issued. Fees collected upon the issuance of such Temporary Licenses shall be retained by the county, and no other fees shall be charged for such licenses; and no refund shall be allowed upon the surrender or nonuse of any such license. The County Judge shall issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such licenses if in his judgment the issuance of the license would in any manner be detrimental to the public. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 3, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—3a. Importation of beer without Distributor's or Manufacturer's License unlawful

It shall be unlawful for any person to import into this State any beer unless he holds a Distributor's or Manufacturer's License. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 3a, as added Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—3b. Quantity of beer imported for personal use; importation by railroad for passengers

It is provided that any person may import tax paid beer into this State for his own personal use but in any one day he shall not import

more than one case containing twenty-four (24) bottles having a capacity of not exceeding twelve (12) ounces each, or not exceeding the equivalent thereof if contained in any other kind of container.

It is also provided that any railroad company operating in this State may import beer owned by such railroad company into this State in such quantities as are necessary to meet the demands of the traveling public while traveling on trains operated by such railroad company, provided, however, no beer shall be sold or served in a dry area. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 3-b, as added Acts 1937, 45th Leg., H.B. #5, § 49, as amended Acts 1937, 45th Leg., S.B. #20, § 12.]

Effective Sept. 1, 1937.

Art. 667—4. License fees payable before issuance of license; disposition of proceeds

Before any license required by this Article shall be issued the license fee required therefor shall be paid to the Assessor and Collector of Taxes of the county where such license is applied for; and such fees, except fees for Temporary Licenses herein provided, shall be for the use and benefit of the Old Age Assistance Fund of the State of Texas. Such funds shall be transmitted by the tenth day of the month following the collection thereof to the Board and by it delivered to the State Treasurer to be placed to the credit of the Old Age Assistance Fund. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 4, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—5. Application for license

Any person desiring a license as manufacturer, distributor, or retail dealer may in vacation or in termtime file a petition with the County Judge of the County in which the applicant desires to engage in such business which petition shall state as follows:

If a manufacturer:

(1) That he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age; that he has been a resident of the county wherein such license is sought for a period of more than one year next preceding the filing of such petition; and that he has not been convicted of a felony within two (2) years immediately preceding the filing of such petition.

(2) If a co-partnership, that all of the individuals have the same qualifications as provided in paragraph (1) above.

(3) If a corporation, that applicant is organized and chartered under, and has complied with, all corporation laws of this State applicable to such corporation, that the principal place of business is in the county where such license is sought and the president or manager shall make an affidavit that he possesses all of the qualifications provided in paragraph (1) above.

If a distributor, General or Local:

(1) Applicant shall give the same information required of a manufacturer, including the place or places where his business shall be transacted, and the county or counties where his sales are to be made.

If a retail dealer:

(1) The same information required of a manufacturer.

(2) The correct address or premises to be used by the applicant for the sale of beer, and whether he desires to sell beer for consumption on or off the premises.

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(3) He shall enumerate the kinds of business in which he is engaged or in which he intends to engage on the licensed premises and other premises under his control of which the licensed premises is a part.

(4) That applicant has no financial interest in any establishment authorized to sell distilled spirits.

(5) That no person engaged in the business of selling distilled spirits has any financial interest in the business to be conducted under the license sought by the applicant.

(6) That he has not had any interest in any license to sell beer which license has been cancelled or revoked within the twelve (12) months next preceding the date of the present application for license.

(7) That he is not residentially domiciled with any person who has any financial interest in any establishment engaged in the business of selling distilled spirits, or any person in whose name any license has been cancelled or revoked within the twelve (12) months preceding the present license.

(8) If applicant for Retailer's License is a corporation, application shall show that the president or manager thereof has been a resident of the county wherein the license is sought for more than one year next preceding the date of the application and that no officer of the corporation is disqualified in any other manner that would prevent him from holding such license in his own name. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 5, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 3, § 2; Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Section 2 of Acts 1936, 44th Leg., 3rd C. S. p. 2040, ch. 495, art. 3, amended section 5 of article 2 of the Act of 1935, but

was not referred to in the amendment of article 2 of the Act of 1935 by the Act of 1937, cited to the text.

Art. 667—6. Hearing upon application

The application of any person desiring to be licensed to manufacture, distribute, or sell beer shall be filed in duplicate with the County Judge, who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same.

Upon the filing of any application for a license, the County Clerk shall give notice thereof by posting at the courthouse door a written notice of the filing of such petition, and the substance thereof, and the date of hearing upon such petition. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such contest should this case be decided in favor of the applicant; provided, however, no officer of a county or any incorporated city or town shall be required to give bond for such costs.

If upon hearing upon the petition of any applicant for a license, the County Judge finds the facts stated therein to be true and has no other lawful reason for denying the application, he shall enter an order so certifying, and a copy of said order shall be delivered to the applicant; applicant shall thereupon present the same to the Assessor and Collector of Taxes of the county wherein the application is made and shall pay to the Assessor and Collector of Taxes the fee specified in this Article for the class of license applied for; the Assessor and Collector of Taxes shall thereupon report to the Texas Liquor Control Board upon a form prescribed by said Board certifying that the application for license has been approved and all required fees paid, and such other information as may be required by the Board, and to such certificate shall be attached a copy of the original application for license. Upon receiving such report or certification from the Assessor and Col-

lector of Taxes, it shall be the duty of the Board or Administrator to issue the license accordingly, if it is found that the applicant is entitled to a license and there are no legal reasons why a license should not be issued, which license shall show the class of business the applicant is authorized to conduct, amount of fees paid, date, correct address of the place of business, and date of expiration, and such other information as the Board shall deem proper; provided, however, that the Board or Administrator may refuse to issue any such license if in possession of information from which it is determined that any statement contained in the application therefor is false, untrue, or misleading. Upon any such refusal by the Board or Administrator, applicant shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application.

If upon hearing upon the petition of any applicant for a license the County Judge finds any facts stated therein to be untrue, the application shall be denied; and it shall be sufficient cause for the County Judge to refuse to grant any license when he has reason to believe that the applicant will conduct his business of selling beer at retail in a manner contrary to law or in any place or manner conducive to violation of the law, or likely to result in any jeopardy to the peace, morals, health, or safety of the general public. In the granting or withholding of any license to sell beer at retail, the County Judge in forming his conclusions shall give due and proper consideration to any recommendations made by the District or County Attorney or the Sheriff of the county, and the Mayor and Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

In the event the County Judge, Texas Liquor Control Board or Administrator denies the application for a license, he shall enter his judgment accordingly, and the applicant may within thirty (30) days thereafter appeal to the District Court of the county where such application is made, and such District Court may hear and determine such appeal in termtime or vacation in a trial de novo. It shall be incumbent upon the applicant to make the same showing in all matters to the District Judge that he is required by this Article to make to the County Judge, and the District Judge in hearing upon the appeal shall hear the cause and render judgment in like manner as required of the County Judge. Judgment of the District Court shall be final, and if the application shall be granted by final judgment, a certified copy of the judgment shall be presented to the Assessor and Collector of Taxes who shall thereupon accept the fees required and make report to the Board in the manner required upon like orders issued by the County Judge. Any person appealing from the judgment of the County Judge shall give bond for all costs incident to such appeal and shall be required to pay such costs if the judgment on appeal is unfavorable to the applicant but not otherwise.

Every person making application for an original license of any class herein provided, except Branch Licenses and Temporary Licenses, shall be subject at the time of the hearing thereon to a fee of Five Dollars (\$5), which fee shall, by the County Clerk, be deposited in the County Treasury, and the applicant shall be liable for no other fees except said application fee and the annual license fee required of him by this Act.

No person shall be authorized to sell beer during the pendency of his original application for a license, and no official shall advise or suggest that such action would be lawful or permitted. [Acts 1935, 44th

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 6, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—7. Expiration and renewal of licenses

(a) Any license issued under the terms of this Article, except Branch Licenses and Temporary Licenses specifically provided for, shall terminate one year from the date issued, and no license shall be issued for a longer term than one year. Any person now holding a license to manufacture or sell beer in this State and desiring to renew the same shall before expiration of his present license, and not more than thirty (30) days prior to such expiration date, be required to make application in the manner herein provided for the primary issuance of any class of license; and when it is desired to renew any license obtained under the procedure provided in this Article, the holder of such license shall make written application to the Assessor and Collector of Taxes of the county of the Licensee's residence not more than thirty (30) days prior to the date of expiration of the license held by him. Such application for renewal shall be signed by the applicant and contain full and complete information as set out and required in any application for original license, and applicant shall pay to the Assessor and Collector of Taxes the appropriate license fee for the class of license sought to be renewed. The Assessor and Collector of Taxes shall thereupon transmit to the Board a copy of said application for renewal together with the certification that all required fees have been paid for the ensuing license period; and upon receiving the copy of said application and certification as to the payment of fees, the Board or Administrator may in its discretion issue the license applied for, or may within five (5) days after receipt of such application reject the same and require that the applicant for renewal file application with the County Judge and submit to hearing before such County Judge in the manner required of any applicant for the primary or original license. Any applicant for renewal when such renewal is rejected by the Board or Administrator shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application for renewal.

(b) Any application for renewal shall be accompanied by a fee of Two Dollars (\$2), which sum shall be in addition to the amount required by law to be paid for annual license fees, as a renewal fee charge. Any renewal fee charges collected by the County Assessor and Collector of Taxes shall be deposited in the County Treasury as fees of office and be so accounted for by him. No applicant for renewal of license shall be required to pay any fees other than the renewal fee charge and license fees herein provided, except when required by action of the Board or Administrator to submit to hearing upon such renewal before the County Judge.

(c) A separate license fee shall be required for every place of business where the business of manufacturing, importing, or selling beer is conducted.

(d) No license issued under the provisions of this Article shall be assignable by the holder thereof to any other person; provided, that should any holder of a license desire to change the place of business designated in such license, he may do so by applying to the County Judge and receiving his consent or approval as in the case of original application for license as herein provided and without being required to pay additional license fees for the remaining unexpired term of the license held by him. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 13.]

Effective Sept. 1, 1937.

(e). No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, distribution, importation, or sale of beer except as provided in Section 18¹ of this Article. [As amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 14.]

¹ Article 667—18.

Effective Sept. 1, 1937.

(f). No person shall conduct as owner or part owner thereof any place of business engaged in the manufacture, distribution, importation, or sale of beer except under the name to which the license covering such place of business is issued.

(g). Every license issued prior to the effective date hereof authorizing the manufacture, distribution, or sale of beer shall remain in force until the date of its expiration, but the licensee thereunder shall hold such license as fully subject to all the provisions of this Act, including, but not limited to, the cancellation or suspension thereof for cause, as any license that may be issued on or after the effective date hereof.

(h). Should the license of any licensee become mutilated or destroyed the Board or Administrator may issue another license by way of replacement in any manner deemed appropriate by the Board or Administrator. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 7, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Art. 667—8. Containers

It shall be unlawful for any person to sell, store, possess, or transport in this State, any beer unless it be in a container as defined in Section 1 of this Article,¹ and every such container shall bear a brand, imprint, or label showing the full name and address of the brewer or manufacturer of such beer, or the name and address of any distributor for whom a special brand is manufactured; and in the event such beer is sold or transported in containers packed in any box, crate, carton, or similar device, the same information shall appear upon the outside of such package. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 8, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

¹ Article 667—1.

Effective September 1, 1937.

Art. 667—9. Records

Every holder of a Manufacturer's or Distributor's license shall make and keep a record of each day's production or receipt of beer, the amount of stamps purchased by him, and the amount of stamps used by him; and every holder of a Manufacturer's or Distributor's License shall make and keep a record of each and every sale of beer and to whom such sale is made, and entry of every transaction shall be made on the day it occurs; and all such licensees shall make and keep such other records as may be required to be made by the Board or Administrator. All records which licensees are required to make shall be kept available for the inspection of the Board or its authorized representatives for a period of at least two years. It shall be unlawful for any person to fail to make records as required herein or fail to keep for a period of at least two years such records open for inspection to the Board or its duly authorized representatives during reasonable office hours, or to make any false entry or fail to make any entry as herein provided. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 9, as amended Acts 1937, 45th Leg., H.B. #5, § 49; Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 15.]

Effective Sept. 1, 1937.

Art. 667—10. Prohibited hours

(a) It shall be unlawful for any person to sell beer or offer same for sale between the hours of 12:00 o'clock midnight and 7:00 a. m. of any day or from and after 12:00 o'clock midnight Saturday until 7:00 a. m. Monday of the following week; provided, however, that any holder of a Retail Dealer's License or a Wine and Beer Retailer's Permit shall, upon showing to the satisfaction of the County Judge that he is engaged also in the sale of food and other commodities for human consumption, and that the sale of beverages for which a license is required does not during such prohibited hours normally in the course of any one week's time amount in dollars and cents to more than the sale value of food and other commodities for human consumption sold by such licensee during such hours, be entitled without being required to pay any fee therefor, to a supplementary license authorizing him to sell such beverages during any hour of any day. Said supplementary license shall be on a form furnished by the Board or Administrator and upon being issued shall be attached to and become a part of basic license of the holder, and such supplementary license shall expire with the license of which it is a part; provided further, that the Board or its representatives may at any time make inquiry into the business of such holder; and unless it can be shown by the licensee that his sales of alcoholic beverages are not exceeding in value the sales of food and other commodities for human consumption during the hours referred to in this provision, the Board or Administrator is authorized after notice and hearing to issue an order revoking such supplementary license, and the holder of a license so revoked shall not be entitled to a supplementary license for six (6) months thereafter.

It is provided that during the period of thirty (30) days after the effective date of this Act as to all persons authorized to sell beer at retail, and during a period of thirty (30) days after the issuance thereof as to any new license or permit authorizing such sale (but not as to any renewal) it shall be presumed that the principal business of the licensee or permittee is not the sale of alcoholic beverages; and during such period of time as against any particular licensee or permittee the restrictions of this Section and Section 2 of this Article¹ shall not apply.

(b) It shall be unlawful for any person to make any sale of beer anywhere in this State on the day of any general primary election or general election held in this State between the hours of 7:00 a. m. and 8:00 p. m. of the day; provided, however, that the holder of a Manufacturer's License or a Distributor's License may make deliveries at wholesale during such hours to the bona fide holders of licenses or permits to sell beer, but shall not make any sales or deliveries to any other person. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 10, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

¹ Article 667—2.

Effective September 1, 1937.

Art. 667—10½. Regulation by cities and towns

In any incorporated city or town where the sale of beer as defined in the Texas Liquor Control Act is prohibited by charter or amendments thereto or by any ordinance from being sold in the residential section, such charter amendments or ordinances shall remain valid and continue effective until such time as such charter provisions, amendments or ordinances may be repealed or amended.

All incorporated cities and towns are hereby authorized to regulate the sale of beer within the corporate limits of such cities and towns by charter amendment or ordinance and may thereby prescribe the opening

and closing hours for such sales; such cities and towns may also designate certain zones in the residential section or sections of said cities and towns where such regulations for opening and closing hours for the sale of beer shall be observed or where such sales may be prohibited. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 10½, as added Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 16.]

Effective Sept. 1, 1937.

Art. 667—11. Reports of assessor and collector of taxes

The Assessor and Collector of Taxes shall make statements to the Board of the amounts collected by him at the times and in the manner required by the Board or Administrator. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 11, as amended Acts 1937, 45th Leg., H. B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—12. Agent to accept service

Any manufacturer, distributor, or person shipping or delivering beer into this State shall file with the Secretary of State a certificate certifying the name of his agent upon whom service may be had, and his or its street address and business; and in the event such person fails to comply with this requirement within fifteen (15) days from the effective date hereof the service may be had on the Secretary of State in any cause of action arising out of the violation of this Act, and it shall be the duty of the Secretary of State to send any such citation served on him to such person, who may be in a foreign State, by registered mail, return receipt requested, and such receipt shall be prima facie evidence of service on such person. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 12, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—13. Prohibited contributions

It shall be unlawful for any person engaged in or having an interest in any business which manufactures, sells, or distributes beer as defined in this Article¹ to contribute any money or other thing of value toward the campaign expenses of any candidate for office. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 13, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

¹ Article 667—1 et seq.

Effective September 1, 1937.

Art. 667—14. Word "saloon" prohibited

It shall be unlawful for any person to use the word "saloon" in any manner printed, painted, or placed upon the door, window, or any other public place on or about his premises or in any advertisement. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 14, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—15. Restrictions on consumption

(a) It shall be unlawful for any licensee to permit any beer to be consumed on the premises where sold unless he is the holder of a license authorizing the sale of beer for consumption on said premises, and it shall be unlawful for any licensee or the agent, servant or employee of any licensee to possess on the premises covered by a license of such

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

licensee any alcoholic beverage that is not authorized by law to be sold for consumption on such premises.

(b) It is hereby provided that hotels authorized by law and holding permit to sell distilled spirits in unbroken packages shall not thereby be disqualified from obtaining a license to sell beer for consumption on the premises where sold. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 15, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—16. Sale of stock after license cancelled

In the event the license of any licensee hereunder is cancelled or forfeited under the provisions of this Act, the licensee shall nevertheless be authorized to, within thirty (30) days thereafter, sell or dispose of in bulk any stock of beer he may have on hand at the time of such cancellation or forfeiture of license. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 16, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—17. Blinds and barriers

It shall be unlawful for any person to install or maintain any barrier or blind in the openings or doors of any retail establishment whose principal business is the sale of beer, nor shall any windows on said establishment be painted in such a way as to obstruct the view from the general public at or above a height of fifty-four (54) inches above the ground or sidewalk outside and beneath such window. The sale of beer shall be deemed to be the principal business of any licensee unless he is the holder of a Supplementary License as provided in Section 10 of this Article.¹ [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 17, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

¹ Penal Code, Art. 667—10.

Effective September 1, 1937.

Art. 667—18. Refunding fee for unexpired term

In all cases where any person pursuing the occupation of selling beer, as herein defined, under licenses issued in accordance with the laws of this State, has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would be otherwise entitled, by reason of the adoption of local option in any county or subdivision thereof, the proportionate amount of license fees paid by him covering the unexpired term shall be refunded to him. So much of the proceeds so derived under the provisions of this Article as may be necessary, not to exceed two (2) per cent thereof, are hereby appropriated for that purpose. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 18, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—19. Cancellation of license

The Board or Administrator shall have the power and authority to cancel the license of any person authorized to sell beer after notice and hearing as herein provided upon finding that the licensee has:

1. If a Retailer:

(a) Knowingly sold beer to any person under the age of twenty-one (21) years; or

(b) Sold beer to any person showing evidence of intoxication; or

(c) Sold beer during any hours when such sale was forbidden by law; or

(d) Possessed or permitted to be possessed by his agents or servants (except as to hotels authorized to sell distilled spirits) on premises covered by his license or on premises adjacent thereto and directly or indirectly under his control any alcoholic beverage that he is not authorized by law to sell at the place of business covered by the license sought to be cancelled by the Board or Administrator; or

(e) Permitted at his place of business any conduct by any person whatsoever that is lewd, immoral, or offensive to public decency; or

(f) Employed any person under the age of eighteen (18) years to sell, handle, or dispense or to assist in selling, handling, or dispensing beer in any establishment where beer is sold at retail to be consumed on the premises where sold; or

(g) Made any false or untrue statements in his application for license; or

(h) Conspired with any person to violate any of the provisions of Section 24 of this Article or accepted the benefits of any act prohibited by such section; or

(i) Refused to permit or interfere with an inspection of the licensed premises by any authorized representative of the Board; or

(j) Contributed money or other thing of value toward the campaign expenses of any candidate for office; or

(k) Permitted his license to be used in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said license; or

(l) Maintained blinds or barriers at his place of business in violation of the law; or that

(m) Such licensee (or, if a corporation, any officer thereof) is financially interested in any place of business engaged in the selling of distilled spirits or has permitted any other person who has a financial interest in any place of business engaged in the sale of distilled spirits to be interested financially in the business authorized by the license sought to be cancelled; or

(n) That the holder of the license sought to be canceled (or, if a corporation, any officer thereof) is residentially domiciled with or so related to any person engaged in the sale of distilled spirits that there is a community of interest which the Board or Administrator may deem inimicable to the purposes of this Act, or is so related to any person in whose name any license has been cancelled or revoked within the twelve (12) months next preceding any date fixed by the Board or Administrator for hearing upon a motion to cancel or revoke the existing license; or

(o) That the licensee has violated any provision of this Act¹ or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the next preceding license period of any license held by the licensee;

(p) In addition to the causes for cancellation hereinbefore set out, the Board or Administrator shall cancel the license of any retailer upon satisfactory proof that the licensee has been finally convicted for the violation of any penal provisions of this Article.

Provided, however, that no license authorizing the retail sale of beer in a hotel shall be cancelled for the causes specified in the foregoing paragraphs (m) and (n) in those cases where there is a place of business authorized to sell distilled spirits in unbroken packages on premises of the hotel other than that part of such premises covered by the retail Beer Dealer's License.

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

2. If a Distributor:

- (a) Violated any of the provisions of Section 24² of this Article; or
- (b) Imported into this State any beer without first having obtained a Distributor's License; or
- (c) Failed to comply with all lawful requirements of the Board as to keeping of records and making of reports; or
- (d) Failed to pay any taxes due to the State as provided in this Article on any beer sold, stored, or transported by the licensee; or
- (e) Refused to permit or interfere with an inspection of his licensed premises or books and records by any authorized representative of the Board; or
- (f) Consummated any sales of beer outside the county or counties in which his license authorizes him to sell; or.
- (g) That the licensee has violated any provisions of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the preceding license period of any license held by the licensee.

3. If a Manufacturer:

The Board or Administrator shall have the power and authority to suspend after notice and hearing the license of any manufacturer to sell beer in this State, when such licensee does business in violation of the provisions of this Act or rules and regulations of the Board, until said licensee obeys all lawful orders of the Board or Administrator requiring such licensee to cease and desist from such violations.

Any act of omission or commission enumerated herein as cause for the cancellation or suspension of any type of license shall also be a violation of this Act and subject to the penalties provided in Section 26³ of this Article, provided, however, that the penalty for the making of any false or untrue statements in any application for licenses or in any statement, report or other instrument to be filed with the Board and which is required to be sworn to shall be as is provided in Section 17 (a)-(2)⁴ of Article I of this Act. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 19, as amended Acts 1937, 45th Leg., H.B. #5, § 49; Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 17.]

¹ Articles 666—1 et seq., 667—1 et seq.

² Article 667—24.

³ Article 667—26.

⁴ Article 666—17.

Effective Sept. 1, 1937.

Art. 667—20. Hearings

The Board or Administrator shall have the power and authority upon its own motion, and it is hereby made its duty upon petition of any County Judge, County Attorney, or Sheriff of a county, or the Mayor or Chief of Police of any incorporated city or town wherein may be located the place of business of the licensee complained of in such petition to fix a date for hearing, and give notice thereof to any licensee complained of for the purpose of determining whether or not the license of such licensee is to be cancelled by the Board and notify such licensee that he may appear to show cause why such license should not be cancelled or revoked. The Board or Administrator is authorized and empowered to cancel the license of any licensee upon determining after hearing that the holder thereof has given cause for such cancellation in any manner enumerated in Section 19¹ of this Article. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 20, as amended Acts 1937, 45th Leg., H.B. #5, § 49; Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 18.]

¹ Article 667—19.

Effective Sept. 1, 1937.

Art. 667—21. Suspension of license

The Board or Administrator shall have the power and authority to suspend for a length of time not exceeding thirty (30) days the license of any retail beer dealer upon ascertaining that any act constituting a breach of the peace has occurred upon the premises covered by the license of such retail dealer or under his control, and at the expiration of the date to which such license has been suspended the Board or Administrator shall cancel the license unless it shall have been shown to the satisfaction of the Board or Administrator that the act was beyond the control of the person holding the license and did not result from improper supervision by the licensee of the conduct of persons permitted by him to be on the licensed premises or premises under his control. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 21, as amended Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—22. Appeal; suit to restrain suspension; evidence; effect of cancellation or suspension

Any order of the Board or Administrator cancelling a license shall have the effect that it shall immediately be unlawful, after notice thereof is given, for the holder of such cancelled license to sell beer for a period of one year thereafter except during the period that the order of cancellation is superseded pending trial, or unless he shall prevail in any final judgment, rendered upon appeal as herein provided. Appeals from decisions or orders of the Board or Administrator cancelling or refusing a license may be had under the same conditions and provisions prescribed in Section 14¹ of Article I of this Act.

No appeal shall lie from an order of suspension of license. No suit of any nature shall be maintained in any Court in this State seeking to restrain the Board or Administrator or any other officer from enforcing any order of suspension issued by the Board or Administrator; and if at any hearing thereon it be shown to the satisfaction of the Board or Administrator that any alcoholic beverage was sold on or from the premises covered by a license during the period of suspension, then such proof shall be sufficient to warrant cancellation of the license.

The cancellation or suspension of any license shall not excuse nor relieve the violator from the penalties provided in this Article. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 22, as amended Acts 1937, 45th Leg., H.B. #5, § 49; Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 19.]

¹ Article 666—14.

Effective Sept. 1, 1937.

Art. 667—23. Beer tax; stamps

(a) There is hereby levied and assessed a tax at the rate of One Dollar and Twenty-four Cents (\$1.24) per barrel on all beer sold, stored, distributed, transported, or held for the purpose of sale in this State whether manufactured in or imported into this State. Said tax shall be paid and evidenced by placing stamps, which the State Treasurer is herein authorized to provide in the denominations required, on each original package as defined in this Article; provided, further, that at the time said stamp is affixed the person affixing the stamp shall with indelible ink or stamp cancel the same by placing the date and the licensee's full name or initials upon said revenue stamp.

(b) It is the purpose and intent of this Act to require the tax to be paid and the stamp evidencing same to be affixed on the first sale, distribution, storage, or transportation and at the source, to the end

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

that it will preclude any person evading the payment of this tax. Any person in possession of beer that has not been stamped in accordance with the provisions hereof shall be held to be in violation of this Article and liable for the taxes herein provided and the penalties for such violation.

(c) On beer imported into this State the duty of payment of the tax and affixing and cancelling the stamps as required herein shall rest primarily upon the importer, and it is hereby declared to be unlawful to import beer into this State unless and until said tax has first been paid and the stamp evidencing such payment has been first affixed and cancelled as required by this Act. It is provided, however, that a holder of a manufacturer's license who imports beer into this State for rebottling purposes shall not be required to affix the State tax stamps to the container in which he receives the same, and that the same may be transported, delivered and stored by him without the State tax stamps being affixed to the containers thereof, but in all instances where beer is imported into this State for rebottling purposes the importer thereof shall be required by rule and regulation of the Board to make and keep such records and submit such reports as may be required, to the end that it will preclude any person from evading the payment of the proper tax.

(d) On beer manufactured in this State the duty of paying the tax and affixing and cancelling the stamp as required herein shall rest primarily upon the manufacturer, and it is hereby declared to be unlawful for any manufacturer to transport any beer or to deliver to any person any beer to be transported away from the brewery of said manufacturer unless and until tax has first been paid and the tax stamp evidencing such payment has been first affixed and cancelled as required by this Act; provided, however, that no person holding a Manufacturer's License in this State shall be required to affix stamps on any containers of beer stored in the brewery where same is brewed or being transported therefrom to a point outside of this State.

(e) Tax stamp of proper denomination shall be placed on each original package as herein defined upon which the stamp is required to be affixed, in such a way that the original package cannot be conveniently and practically opened without mutilating or defacing said stamp; provided, however, that as to packages where this requirement is in the judgment of the Board impractical the Board shall have authority by regulation to require the affixing of the stamp in any manner it may deem necessary for the protection of the revenue due to the State.

(f) It shall be unlawful to transport to destinations in this State any beer upon which tax has not been paid and such payment evidenced by stamps affixed and cancelled as required by law.

(g) If any person has paid the tax on any beer and affixed tax stamps to the containers thereof and thereafter said beer is shipped out of Texas for consumption, a claim for refund may be made upon paying a fee of Five Dollars (\$5) to the Board at the time and in the manner prescribed by the Board or Administrator. So much of any funds derived hereunder as may be necessary, not to exceed two (2) per cent thereof, is hereby appropriated for such purpose. The Board may promulgate rules and regulations generally for the enforcement of this provision.

(h) No bottled beer shall be stored in this State except it be in a container or original package bearing the proper tax stamp, unless the same is exposed for sale by a retailer or is being cooled for sale by a retailer, except when the same is legally in the possession of the ultimate consumer.

(i) Except as may be otherwise provided by rule and regulation of the Board no person shall be authorized to purchase any beer tax stamps herein provided unless he is the holder of a Manufacturer's or Distributor's License; provided however, that the holder of a Manufacturer's or Distributor's License may designate as his agent for the purchase of stamps any manufacturer or wholesaler located outside the State whose products are imported into this State by the holder of such license; and the State Treasurer shall make no sale of beer tax stamps to any person not authorized to purchase same.

(j) The Board shall from time to time inspect the records of manufacturers, importers, or distributors to ascertain whether there has occurred any evasion of the tax imposed by this Article upon beer sold, stored, distributed, transported, or held for the purpose of sale in this State. It is hereby declared to be the law that as to all beer sold, stored, distributed, transported or held for the purpose of sale in this State and for which the tax has not been paid and evidenced as required by law prior to the first such act, the tax hereby imposed shall be double the amount of tax required to be paid upon beer that is stamped before its first sale, storage, distribution, or transportation in this State; and any person who shall sell, store, distribute, transport, or hold for purpose of sale any unstamped beer shall be in violation of the law and may be held liable for the tax that may be found to be due to the State. Any receipts or sales or record of receipt or sales of beer by any person in quantity exceeding the amount of beer for which tax stamps have been purchased by such person from the Board shall be prima facie evidence of the sale of beer without payment of the tax thereon.

(k) It shall be unlawful for any person to open any container of beer having a stamp thereon without then and there mutilating or otherwise defacing such stamp so that it cannot be again used; and

(l) It shall be a violation of law for any person to attach to any container of beer or to possess any stamp that has been theretofore attached to a different container, or to use for the packing of beer or to possess for such purpose any container bearing a stamp that has theretofore been used for the delivery of beer unless the stamp required by law to cover the previous sale or delivery has thereafter been defaced, mutilated, or removed.

(m) Any payment of taxes upon beer found to have been sold, stored, or transported before payment thereof, voluntarily or as a result of seizure and sale, shall not excuse any person from penalties provided for failure to pay taxes and evidence such payment by the application of stamps as required in this Article. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 23, as added Acts 1937, 45th Leg., H. B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—24. Marketing practices

(1) It shall be unlawful for any manufacturer or distributor directly or indirectly or through a subsidiary or affiliate, any agent or any employee, or by any officer, director, or firm member:

(a) Ownership of Interest or Real Estate: To own any interest in the business of any retail dealer in beer, or any interest of any kind in the premises in which any such retail dealer conducts his or its business.

(b) Retail licenses: To hold the ownership or any interest in any license to sell brewery products for consumption on the premises covered by such license, except the license of manufacturers to dispense their own products on the brewery premises.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) Loans and Guaranties: To furnish, give or lend any money or other thing of value, except signs, or to extend unusual credit terms, to any person engaged in selling brewery products for consumption on or off the premises where sold, or to any person for the use, benefit, or relief of said person engaged in selling as above or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling beer at retail. The extension of credit for longer period of time than is generally extended to regular customers of a manufacturer or distributor covering the purchase of brewery products from such manufacturer or distributor shall be deemed unusual credit terms.

(d) Consignment Sales: To make any delivery of beer under any agreement, arrangement, condition, or system whereby the person receiving the same has the right at any time to relinquish possession to or return same to the shipper, or whereby the title to such beer remains in the shipper; or to make any delivery of beer under any agreement, arrangement, condition, or system whereby the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver, including any delivery of beer to a factor or broker; or to employ any other method whereby any person is placed in actual or constructive possession of beer without acquiring title thereto, or whereby any person designated by the shipper or seller as the purchaser did not in fact purchase the same, or to make any other kind of transaction which in law may be construed as a consignment sale.

(e) Equipment and Fixtures: To furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to any person engaged in selling brewery products for consumption on the premises where sold. This Subsection does not apply to such equipment, fixtures, or supplies furnished, given, loaned, rented, or sold prior to November 16, 1935, except that such transactions made prior to this date are not to be used as a consideration for an agreement thereafter made respecting the purchase of brewery products; provided that equipment, fixtures, or supplies furnished, given, rented, loaned, or sold to any person engaged in selling brewery products for consumption on the premises where sold, prior to November 16, 1935, when removed from the premises of such person or repossessed by any manufacturer or distributor of brewery products or by his agents or employees, shall not again be furnished, given, rented, loaned, or sold to any person engaged in the sale of brewery products for consumption on the premises where sold.

(f) Allowances and Rebates for Advertising and Distribution Service: To pay or to make any allowance to any buyer for a special advertising or distribution service, (1) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (2) unless such service is rendered and the payment is reasonable and not excessive in amount; and (3) unless such contract is separate and distinct from any sales contract; and (4) unless such payment is equally available for the same service to all competitive buyers in the same class in the same trade area; or (5) where the result of any allowance, rebate, or payment results in the retailer giving to any manufacturer or distributor any advantage as to the sale of beer distributed by such manufacturer or distributor.

(g) Prizes and Premiums: To offer any prize, premium, gift, or other similar inducement, except advertising novelties of nominal value, to any dealer in or consumer of brewery products.

(h) Advertising: To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or

other publication or by any sign or outdoor advertisement or any other printed or graphic matter, any advertisement of any brewery product, if such advertisement causes, or is reasonably calculated to cause, deception of the consumer with respect to the product advertised. An advertisement shall be deemed misleading if it is untrue in any particular or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression. Any advertisement of or reference to alcoholic content of any brewery product or any advertisement disparaging of a competitor's products, or that is obscene or indecent, shall be unlawful.

(i) Misbranding: To sell or otherwise introduce into commerce any brewery product that is misbranded. A product is misbranded:

(1) Food and Drug Act Requirement—If it is misbranded within the meaning of the Food and Drug Act.

(2) Standards of Fill—If the container is so made, formed, or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill.

(3) Standards of Quality—If it misrepresents the Standard of quality of products in the branded container.

(4) Labels—If it is so labeled that it purports to be any product other than is actually in the container.

(j) Exclusive Outlet: To require, by agreement or otherwise, that any retailer engaged in the sale of brewery products shall purchase any such products from such persons to the exclusion in whole or in part, of the products sold or offered for sale by any other person engaged in the manufacture or distribution of brewery products, or to require the retailer to take or dispose of a certain quota of any such product.

(k) Commercial Bribery: To give or permit to be given money or anything of value in an effort to induce agents, employers, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting with competitors.

(l) Returnable Container: It shall be unlawful for any manufacturer to accept as a return or to purchase or use a barrel, half-barrel, keg, case, or bottle permanently branded or imprinted with the name of another manufacturer.

(m) Labeling: To manufacture or sell or otherwise introduce into commerce in this State any brewery product unless it bear a label showing in plain, legible type the name and address of the manufacturer or the name of the distributor for whom any special brand is manufactured, the brand or trade name, and the net content of the bottle in terms of United States liquid measure; or to manufacture or sell, or otherwise introduce into commerce in this State any beer or container or dispensing equipment, carton, or case for beer bearing a label or imprint which by wording, lettering, numbering, or illustration, or in any other manner carries any reference or illusion or suggestion to the alcoholic strength of the product or to any manufacturing process, ageing, analysis, or scientific matter or fact, or upon which appears any such words or combination of words or abbreviations thereof, as "strong," "full strength," "extra strength," "high test," "high proof," "prewar strength," "full old time alcoholic strength," or any words or figures or other marks or characters alluding or relating to "proof," "balling" or "extract," contents of the product, or which bears a label that is untrue in any particular or which directly or by ambiguity, omission, or inference tends to create a misleading impression or causes,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

or is reasonably calculated to cause deception of the consumer or buyer with respect to the product.

(2) It shall be unlawful for any retail dealer to dispense any draft beer unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or the brand of the particular product being at the time dispensed through each faucet or other apparatus, which sign shall be in legible lettering and in full sight of the purchaser.

(3) In addition to other power and authority granted by this Act to the Board or Administrator, said Board shall have the power and authority upon finding it necessary to effectuate the purposes of this Article to adopt rules and regulations to provide a schedule of deposits required to be obtained on any beer containers delivered by any licensee, and any violation of any such regulation shall be unlawful.

(4) Provided that if any provision of this Section 24 is for any reason held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions, and the Legislature hereby declares that it would have passed this Section, and each subsection, provision, sentence, clause, or phrase thereof, irrespective of the fact that any provision is declared unconstitutional. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 24, as added Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—25. Transportation of beer

(a) It is hereby declared to be lawful to transport beer, as herein defined, and upon which the tax has been paid and evidenced by stamps as required by law, from any place in this State where the sale, manufacture, and distribution of said beer is authorized by law to any other place within this State where the same may be lawfully manufactured, sold, or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local option territory in which the manufacture, sale, and distribution of said beer is prohibited. Provided, however, that any such shipments must be accompanied by a written statement furnished and signed by the shipper, showing the name and address of the consignor and the consignee, the origin and destination of such shipment, and such other information as may be required by the Board or Administrator; and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any representative of the Board or any peace officer making demand therefor, and said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer. The transportation of beer not accompanied by statement herein required, or failure to exhibit the same upon lawful demand, shall be a violation of this Act, and any beer being transported in violation hereof shall be subject to seizure without warrant.

(b) Possession by any person in any dry area of beer in any quantity exceeding twenty-four (24) bottles having a capacity of twelve (12) ounces each shall be prima facie evidence of possession for the purpose of sale in a dry area. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 25, as added Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

Art. 667—26. Penalty

Any person who violates any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be punished

by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

It is provided, however, that in cases where the Administrator or the Board in writing recommends acceptance of a plea of guilty, and such plea is accepted, the decree of the court and assessment of penalty shall not require cancellation of a license as provided in Section 19(p) ¹ of this Article, but shall leave the question of cancellation of license in such cases to the discretion of the Board or Administrator, having in mind the purposes of this Act. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 26, as added Acts 1937, 45th Leg., H.B. #5, § 49, as amended Acts 1937, 45th Leg., 1st C.S., S.B. #20, § 20.]

¹ Article 667—19(p).

Effective Sept. 1, 1937.

Art. 667—27. Restraining orders and injunction; violation of injunction or restraining order, effect of

Upon having called to his attention by affidavit of any credible person that any person is violating, or is about to violate, any of the provisions of the Texas Liquor Control Act or if any permit or license was wrongfully issued, it shall be the duty of the Attorney General, or the District or County Attorney, to begin proceedings to restrain any such person from the threatened or any further violation, or operation under such permit or license, and the District Judge shall have authority to issue restraining orders without hearing, and upon notice and hearing to grant injunction, to prevent such threatened or further violation by the person complained against, and may require the person complaining to file a bond in such amount and containing such conditions and in such cases as the Judge may deem necessary. Upon any judgment of the Court that violation of any restraining order or injunction issued hereunder has occurred, such judgment shall operate to cancel without further proceedings, any license or permit held by the person who is defendant in the proceedings, and no license or permit shall be reissued to any person whose license or permit has been so cancelled, revoked, or forfeited within one year next preceding the filing of his application for a new license or permit. It shall be the duty of the District Clerk to notify the County Judge of the county wherein was issued any license or permit so cancelled, and to notify the Board of any judgment of a Court which may operate hereunder to cancel a license or permit. [Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 27, as added Acts 1937, 45th Leg., H.B. # 5, § 49.]

Effective September 1, 1937.

TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art.

700a. Sterilization of dishes; use of broken or cracked dishes and unlaundered napkins; definitions of term [New].

705c. Sanitary employees [New].

Art. 700. [Repealed by Acts 1937, 45th Leg., H.B. #645, § 8.]

Effective 90 days after May 22, 1937.
date of adjournment.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 700a. Sterilization of dishes; use of broken or cracked dishes and unlaundered napkins; definitions of terms

Section 1. As used in this Act, unless the context otherwise indicates:

(a) The term "Person" includes individual, partnership, corporation, and association.

(b) The term "Dish" includes all vessels of any shape or size, constructed of any material whatsoever, commonly used in eating or drinking.

(c) The term "Utensil" includes all vessels of any shape or size, constructed of any material, commonly used in preparing, holding, storing, or transporting food, and all articles, of whatsoever construction, size, or shape, used in serving or eating food.

(d) The term "Liquor Dispensary" includes all places where beers, ales, wines, or any other alcoholic beverages are stored, prepared, labeled, bottled, or served, or otherwise handled.

(e) The term "Receptacle" includes all vessels, trays, pots, pans, or other articles used for holding food.

(f) The term "Factory" includes all places in which is carried on the business of manufacturing or preparing food for human consumption.

Sterilization of dishes, receptacles, or utensils

Sec. 2. No person, firm, corporation or association operating, managing or conducting any hotel, cafe, restaurant, dining car, drug store, soda water fountain, meat market, bakery or confectionery, liquor dispensary or any other establishment where food or drink of any kind is served or permitted to be served to the public, shall furnish to any person any dish, receptacle or utensil used in eating, drinking or conveying food if such dish, receptacle or utensil has not been: (a) cleaned by washing in clean warm soap or alkaline solution until all visible grease and/or solid matter has been removed, and rinsed in clean water, and (b) sterilized by (1) heat, or (2) boiling in water for not less than two minutes or (3) soaking in a chlorine solution of a strength of not less than one hundred parts per million for not less than five minutes, subsequent to any use; provided the provisions of this Section shall not apply to such establishments, as described herein, that use electrically operated dishwashing and glass-washing machines, that accomplish these purposes mechanically. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #119, § 1.]

Effective 90 days after Oct. 26, 1937, date declared an emergency and provided that the act should take effect from and after the adjournment.

Section 2 of the amendatory act of 1937 its passage.

Broken dishes, receptacles, and utensils

Sec. 3. (a) No dish, receptacle, or utensil shall be used or kept for use by any public eating or drinking establishment, or any factory, to hold or convey food intended for human consumption if said dish, receptacle, or utensil is chipped, cracked, or broken, or constructed in such a manner as to render its cleansing and/or sterilization impossible or doubtful.

Clean napkins

Sec. 4. (a) No napkin, or cloth, or other article that has been used, shall be furnished any person until said napkin, cloth, or other article shall have been laundered or sterilized, subsequent to any other use.

(b) No napkins, straws, toothpicks, or any other articles shall be offered for the use of any person if said napkins, straws, toothpicks, or other articles have not been securely protected from dust, dirt, insects, rodents, and, as far as may be necessary by all reasonable means, from all contaminations.

Dishes, receptacles, and utensils in food factories

Sec. 5. No person, firm, corporation, or association operating, managing, or conducting any food factory or place where food is manufactured shall use or keep for use any dish, utensil, ladle, or other instrument, or any food-grinding machine or implement that has not been washed and sterilized, as provided in the preceding Article of this Act for dishes and other articles, before each use; or keep for use, or use any dish, utensil, or other article, for food that is cracked, broken, chipped, or otherwise damaged in a manner to render proper cleaning or sterilizing doubtful or impossible.

Poisonous cleaners and polishes

Sec. 6. No dish, utensil, or instrument used in eating or drinking shall be offered for use to any person, or used in the manufacturing of food, if said dish, utensil, or instrument has been cleaned or polished by means of any cyanide or other poisonous substance. This provision shall not apply to any dish, utensil, or instrument if said dish, utensil, or instrument has been subsequently cleaned in a manner that all traces of said poisonous substances shall have been removed.

Penalty

Sec. 7. Whoever shall do any act or thing prohibited or neglect, or refuse to do any act or thing required by the preceding Articles of this Chapter, or in any way violate any provisions thereof, shall be fined any amount not less than Five Dollars (\$5) nor more than One Hundred Dollars (\$100).

Repealing clause

Sec. 8. Article 700, Title 12, Chapter 1, Revised Criminal Statutes of the State of Texas, 1925, and all other laws and parts of laws in conflict with this Act are hereby repealed.

Separability clause

Sec. 9. Provided that nothing in this Section or in the Title of this Act or in any Section of this Act shall be construed to preclude the prosecution of any person, corporation, or association of persons for acts or omissions in violation of any of the provisions repealed by this Section where such acts or omissions take place prior to time of repeal of such provision by this Section. [Acts 1937, 45th Leg., H.B. # 645.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 10 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to better safeguard the health of the people of the State of Texas by making it unlawful to serve food in improperly cleaned or unsterilized dishes or utensils; providing rules for cleaning and sterilizing dishes or utensils; prohibiting the use of cracked or broken dishes and utensils, and unlaundered napkins, and un-

protected napkins, straws, and other articles commonly used in eating and drinking; prohibiting the use of unsterilized or broken utensils in factories; providing penalties; repealing Article 700, Title 12, Chapter 1, Revised Criminal Statutes of Texas, 1925; saving to the State the right to prosecute for violation prior to the repeal of these Articles; providing that if any particular Section or part of this Act is held unconstitutional or inoperative, such defect shall not affect any other Section or part of this Act; and declaring an emergency. [Acts 1937, 45th Leg., H.B.#645.]

Art. 705. [Repealed by Acts 1937, 45th Leg., H.B. #646, § 3.]

Effective 90 days after May 22, 1937, date of adjournment.

Art. 705c. Sanitary employees

Section 1. No person, firm, corporation, or association operating, managing, or conducting any hotel, restaurant, dining car, soda water foun-

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tain, liquor dispensary, or any other establishment where food or drink of any kind is served or permitted to be served, or operating any dairy, creamery, meat market, abattoir, meat packing plant, bakery, candy factory, cannery, cold storage, pecan shelling establishment, vegetable market, or any factory or other place where food is stored, packed, prepared, or otherwise handled in this State, shall work, employ, or keep in their employ, in or about any said place, or deliver any article of food therefrom, any person infected with or affected by any infectious or contagious disease, or work or employ any person to work in or about any said place, or deliver any article of food therefrom, who at the time of his employment had not in his possession a certificate signed by a legally licensed physician residing in the county where said person is to be employed, or is employed, attesting the fact that the bearer had been examined by such physician within one week prior to the time of employment, and that such examination disclosed the fact that such person to be employed was free from any infectious or contagious disease, or fail to institute and have made medical examinations of all such employees at intervals of time not exceeding six (6) months and after such examinations promptly discharge from their employment in or about any said place any and all persons found to be infected with or affected by any infectious or contagious disease.

Sec. 2. Whoever violates any provision of this Act shall be fined not less than Five Dollars (\$5) nor more than One Hundred Dollars (\$100).

Sec. 3 (a) Article 705, Title 12, Chapter 1, Revised Criminal Statutes of Texas, of 1925, and all laws and parts of laws in conflict herewith are hereby repealed. (b) Provided that nothing in this Section or in the Title of this Act or in any Section of this Act shall be construed to preclude the prosecution of any person, corporation, or association of persons for acts or omissions in violation of any of the provisions repealed by this Section where such acts or omissions take place prior to time of repeal of such provision by this Section. [Acts 1937, 45th Leg., H.B. # 646.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that persons, firms, or corporations, who operate or conduct hotels, cafes, restaurants, dining cars, or other public eating places, bakeries, and meat markets in this State, shall not work, employ, or keep in their employ any person who is infected with or affected by any infectious or contagious disease; and further providing that such persons, firms, or corporations or common carriers, operating or conducting any public eating place heretofore named or operating

any bakery, or meat market, public dairy or dairies, shall have made a medical inspection of all their employees at intervals of time of not more than six (6) months, and if such examination discloses the fact that any person in their employment is infected with or affected by any infectious or contagious disease, that such person shall promptly be discharged from such employment; providing penalties for a violation of the provisions of this Act; repealing Article 705, Title 12, Chapter 1, Revised Criminal Statutes of the State of Texas, of 1925; saving to the State the right to prosecute for violation prior to repeal; and declaring an emergency. [Acts 1937, 45th Leg., H.B.#646.]

CHAPTER TWO—UNWHOLESOME FOOD, DRINK OR MEDICINE

Art. 709. Preservatives added; regulations by State Board of Health

No person shall manufacture, sell, offer or expose for sale or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoate, sulphurous acids or sulphites, salicylic acid or salicylates, abradol, beta naphthol, fluorine compounds, dulcin, glucin, cocaine, sulphuric acid or other mineral acid except diluted phosphoric acid, any preparation of lead or copper or other ingredients

injurious to health; provided, however, that organic salicylates used for flavoring, such as methyl salicylate, oil of betula lenta or oil of gaultheria procumbens shall not be prohibited; nothing herein shall be construed as prohibiting the sale of foods or drinks preserved with one-tenth of one per cent of benzoate of soda, or the equivalent benzoic acid, when a statement of such fact is plainly indicated on the label.

The State Board of Health is hereby authorized, for the protection of the public health, to promulgate regulations limiting the quantity of oxides of sulphur and other bleaching, clarifying or refining agents, that may be used for bleaching, clarifying or refining fruits, vegetables and other foods. [As amended Acts 1937, 45th Leg., S.B. # 230, § 1.]

Amendment of 1937, effective May 5, 1937.

Section 2 of the amendatory Act of 1937 #230 declared an emergency making the act effective on and after its passage.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art.

725b. Narcotic drug regulations; definitions [New].

Arts. 720–725. [Repealed by Acts 1937, 45th Leg., H.B. #440, § 27.]

Effective 90 days after May 22, 1937, date of adjournment.

Art. 725a. [Repealed by Acts 1937, 45th Leg., H.B. #440, § 27.]

Effective 90 days after May 22, 1937, date of adjournment.

Art. 725b. Narcotic drug regulations; definitions

Section 1. The following words and phrases, as used in this Act, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, copartnership, or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this State and any other person authorized by law to treat sick and injured human beings in this State and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this State.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this State and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the Pharmacy Laws of this State.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the Department of Public Safety, as proper to be entrusted with the custody of narcotic drugs and the professional

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use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the Department of Public Safety as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) The term "Cannabis" as used in this Act shall include all parts of the plant *Cannabis Sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the nonresinous oil obtained from such seed, nor the mature stalks of such plant, nor any product or manufacture of such stalks, except the resin extracted therefrom and any compound, manufacture, salt, derivative, mixture, or preparation of such resin. The term "Cannabis" shall include those varieties of Cannabis known as Marihuana, Haseesh and Hasish.

(14) "Narcotic drugs" means coca leaves, opium, pyote, mescal bean, and cannabis, and every substance neither chemically nor physically distinguishable from them.

(15) "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

(16) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by Federal Law, and if no such order form is provided, then on an official form provided for that purpose by the Department of Public Safety.

(17) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(18) "Registry number" means the number assigned to each person registered under the Federal Narcotic Laws.

Acts prohibited

Sec. 2. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug.

Authorized acts

Sec. 2A. It shall not be unlawful to manufacture, possess, have, control, sell, prescribe, administer, dispense, or compound any narcotic drug where same is authorized under the terms of this Act.

Manufacturers and wholesalers

Sec. 3. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler or as an apothecary shall supply the same, without having first obtained a license to so do from the Department of Public Safety. A fee of Fifty (50) Cents shall be charged and collected by the Department of Public Safety, such fee to accompany the application

for each license issued under the provisions of this Act, such filing fee to be deposited by the Department of Public Safety with the State Treasurer on each business day following the receipt thereof and the same shall be credited to the General Fund of this State. Such licenses shall be issued by the Department of Public Safety upon the effective date of this Act to be in effect until July 1, 1938, and the same shall be renewed by July 1st of each succeeding year. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #130, § 1.]

Effective Oct 26, 1937.
Section 3 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

Qualification for licenses

Sec. 4. No license shall be issued under the foregoing Section unless and until the applicant therefor has furnished proof satisfactory to the Department of Public Safety:

(a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within five (5) years been convicted of a willful violation of any law of the United States, or of any State, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict.

The Department of Public Safety may suspend or revoke any license for cause.

Sale on written orders

Sec. 5. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) To a manufacturer, wholesaler, or apothecary.

(b) To a physician, dentist, or veterinarian.

(c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption, as required by the Federal Narcotic Laws, to a person in the employ of the United States Government, or of any State, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or to a physician or surgeon duly licensed in some State, Territory, or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft, for the actual medical needs of persons on board such ship or aircraft when not in port. Provided, such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft or to the physician, surgeon, or retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.

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(c) To a person in a foreign country if the provisions of the Federal Narcotic Laws are complied with.

(3) (Use of Official Written Orders). An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In the event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two (2) years in such way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. It shall be deemed a compliance with this Subsection if the parties to the transaction have complied with the Federal Narcotic Laws, respecting the requirements governing the use of order forms.

(4) (Possession Lawful). Possession of or control of narcotic drugs obtained as authorized by this Section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this State or of any other State, or of any political subdivision thereof, or a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or a physician or surgeon duly licensed in some State, Territory, or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft, who obtains narcotic drugs under the provisions of this Section or otherwise, shall not administer nor dispense, nor otherwise use such drugs, within this State, except within the scope of his employment or official duty, and then only for scientific or medical purposes and subject to the provisions of this Act.

Sales by apothecaries

Sec. 6. (1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the second day after the same is issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the Federal Narcotic Laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two (2) years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. The prescription shall not be refilled.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty (20) per cent of the complete solution, to be used for medical purposes.

Professional use of narcotic drugs

Sec. 7. (1) (Physicians and Dentists). A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

(2) (Veterinarians). A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

(3) (Return of Unused Drugs). Any person who has obtained from a physician, dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian, shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

Preparations exempted

Sec. 8. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce, (a) not more than two (2) grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or of any of its salts, (e) not more than one-half of a grain of extract of cannabis nor more than one-half of a grain of any more potent derivative or preparation of cannabis, (f) and not more than one of the drugs named above in clauses (a), (b), (c), (d), and (e).

(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this Act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

The exemptions authorized by this Section shall be subject to the following conditions:

(a) No person shall prescribe, administer, dispense, or sell under the exemptions of this Section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this Section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which such preparation is prescribed, administered, dispensed, or sold, within any forty-eight (48) consecutive hours, with more than four grains of opium, or more than one-half grain of morphine or of any of its salts, or more than two (2) grains of codeine or of any of its salts, or more than one-quarter of a grain of heroin or of any of its salts, or more than one grain of extract of cannabis or one grain of any more potent derivative of or preparation of cannabis, or will provide such person or the owner of such animal, within forty-eight (48) consecutive hours, with more than one preparation exempted by this Section from the operation of this Act.

(b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered,

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dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

Nothing in this Section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this Act.

Record to be kept

Sec. 9. (1) (Physicians, Dentists, Veterinarians, and other Authorized Persons). Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this Subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up by him, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Provided, that no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight (48) consecutive hours, (a) four (4) grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two (2) grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) one grain of extract of cannabis or one grain of any more potent derivative or preparation of cannabis, or (f) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) (Manufacturers and Wholesalers). Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section.

(3) (Apothecaries). Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section.

(4) (Vendors of Exempted Preparations). Every person who purchases for resale, or who sells narcotic drug preparations exempted by Section 8 of this Act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of Subsection 5 of this Section.

(5) (Form and Preservation of Records). The form of records shall be prescribed by the Department of Public Safety. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine con-

tained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant *Cannabis Sativa L.* The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two (2) years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this Section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

Labels

Sec. 10. (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this Act, shall alter, deface, or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient, or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name and address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

Authorized possession of narcotic drugs by individuals

Sec. 11. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of Section 5 of this Act, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him, by the person selling or dispensing the same.

Persons and corporations exempted

Sec. 12. The provisions of this Act restricting the possession and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

Common nuisances

Sec. 13. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

Contraband—Seizure

Sec. 14. All narcotic drugs, as herein defined, manufactured, sold, or had in possession contrary to any provision hereof, shall be, and the same are declared to be contraband, and shall be subject to seizure and confiscation by any officer or employee of the Department of Public Safety or by any peace officer who is authorized to and charged with the duty of enforcing the provisions of this Act.

Seizure without warrant

Sec. 15. Officers and employees of the Department of Public Safety, and all peace officers who have authority to, and are charged with the duty of enforcing the provisions of this Act, shall have power and authority, without warrant, to enter and examine any buildings, vessels, cars, conveyances, vehicles, or other structures or places, when they have reason to believe and do believe that any or either of same contain narcotic drugs manufactured, bought, sold, shipped, or had in possession contrary to any of the provisions of this Act, or that the receptacle containing the same is falsely labeled, except when any such building, vessel, or other structure is occupied and used as a private residence, in which event a search warrant shall be procured as hereinbelow provided.

Said officers and employees of the Department of Public Safety and all peace officers who have authority to, and are charged with the duty of enforcing the provisions of this Act, shall further have power and authority, without warrant, to open and examine any box, parcel, barrel, package, or receptacle in the possession of any person which they have reason to believe, and do believe contain narcotic drugs manufactured, bought, sold, shipped, or had in possession contrary to any of the provisions of this Act and that the receptacle containing same is falsely labeled.

Officers and employees of the Department of Public Safety and peace officers who have authority to, and are charged with the duty of enforcing the provisions of this Act, when acting under circumstances and conditions where a search or inspection is authorized without a warrant, as immediately hereinabove provided shall be given free access to and shall not be hindered or interfered with in their examination of buildings, vessels, cars, conveyances, vehicles, or other structures or places, and in case any officer or employee of the Department of Public Safety is hindered or interfered with in making such examination, any license held by the person preventing such free access or interfering or hindering such officers, employees, or employee, shall be subject to revocation by the Department of Public Safety.

Officers and employees of the Department of Public Safety and all peace officers who have authority to, and are charged with the duty of enforcing the provisions of this Act, shall have authority to take into their possession any and all narcotic drugs found by them as a result of any search or inspection without a warrant, as authorized by this Section of this Act provided that said officers shall be required to issue to the person from whose possession said narcotics are taken a receipt therefor if said person is present and to immediately file a sworn inven-

tory of all narcotic drugs taken with any magistrate in the county where said narcotic drugs are taken, and the retention and disposition of said narcotic drugs so taken by any said officer shall, after coming into his possession, be controlled by the applicable provisions of Section 16 hereof.

Search warrants—Issuance

Sec. 16. Whenever any officers or employee of the Department of Public Safety or any peace officer who has the authority to and is charged with the duty of enforcing the provisions of this Act, shall have reason to believe that any person has in his possession any narcotic drugs contrary to the provisions hereof, he may file, or cause to be filed his sworn complaint to such effect before any magistrate of the county in which any such narcotic drugs are located, and procure a search warrant and examine the same. The application for the issuance of and execution of any such search warrant hereunder, and all proceedings relative thereto, shall conform as near as may be to the provisions of Title 6 of the Code of Criminal Procedure, except where otherwise provided in this Act. Upon the execution of such search warrant the officer executing the same shall make due return thereof to the Court issuing the same, together with a sworn inventory of all narcotic drugs taken thereunder. The Court shall thereupon issue process against the person owning or controlling the narcotic drugs and upon return thereof it shall proceed to determine whether or not the same are held or possessed in violation of the provisions of this Act, and make up a finding to the effect that the drugs are so illegally held or possessed, a judgment shall be entered against the owner or person found in the possession of the same for the costs of the proceedings and provide for the disposition of the property forfeited, as provided by the terms hereof. In no event shall the narcotic drugs seized by any authorized person under authority of a search warrant or without authority of a search warrant be taken from the custody of any officer or other person authorized to seize same, by writ of replevin or other process, but the same shall be held by the officer to await the final judgment in such criminal proceedings as may be had thereon.

Narcotic drugs to be delivered to State officials, etc.

Sec. 17. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this Section otherwise provided, the Judge of the District Court having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the said District Court and to the United States Commissioner of Narcotics, by the officer who destroys them.

(b) Upon written application by the Department of Public Safety, the Judge of the District Court by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said Department of Public Safety, for distribution or destruction, as hereinafter provided.

(c) Upon application by any hospital within this State, not operated for private gain, the Department of Public Safety may in its discretion deliver any narcotic drugs that have come into its custody by authority of this Section to the applicant for medicinal use. The Department of

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Public Safety may from time to time deliver excess stocks of such narcotic drugs to the United States Commissioner of Narcotics, or may destroy the same.

(d) The Department of Public Safety shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received, and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all Federal or State Officers charged with the enforcement of Federal and State Narcotic Laws.

Notice of conviction to be sent to Licensing Board

Sec. 18. On the conviction of any person of the violation of any provisions of this Act, a copy of the judgment and sentence, and of the opinion of the Court or magistrate, if any opinion be filed, shall be sent by the Clerk of the Court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, the Court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

Records, confidential

Sec. 19. Prescriptions, orders, and records, required by this Act, and stocks of narcotic drugs, shall be open for inspection only to Federal, State, county, and municipal officers, whose duty it is to enforce the laws of this State or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in Court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

Fraud or deceit

Sec. 20. (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this Act.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this Section shall apply to all transactions relating to narcotic drugs under the provisions of Section 8 of this Act, in the same way as they apply to transactions under all other Sections.

Exceptions and exemptions not required to be negatived

Sec. 21. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provisions of this Act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this Act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

Enforcement and cooperation

Sec. 22. It is hereby made the duty of the Department of Public Safety, its officers, agents, inspectors, and representatives, and of all peace officers within the State, including all peace officers operating under the jurisdiction of the Department of Public Safety, or that may hereafter operate under its jurisdiction and all County Attorneys, District Attorneys, and the Attorney General to enforce all provisions of this Act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs.

There is hereby appropriated out of any funds not already appropriated, the sum of Twenty Thousand Dollars (\$20,000) for the use of the Department of Public Safety for the necessary expenses in the administration and enforcement of the provisions of this Act and the said Department of Public Safety is hereby authorized to hire such agents, experts, and inspectors as it deems necessary to insure the adequate administration and enforcement of the provisions of this Act and said Department of Public Safety may and shall pay the salary of an Assistant Attorney General, to be appointed by the Attorney General of Texas, who shall give his full time to the administration and enforcement of the provisions of this Act.

Penalties

Sec. 23. Any person violating any provision of this Act shall, upon conviction, be punished by confinement in the penitentiary for not less than two (2) nor more than ten (10) years, and the benefits of the suspended sentence law shall not be available to a defendant convicted for violation of the provisions of this Act.

Effect of acquittal or conviction under Federal Narcotic Laws

Sec. 24. No person shall be prosecuted for a violation of any provision of this Act if such person has been acquitted or convicted under the Federal Narcotic Laws of the same act or omission which, it is alleged, constitutes a violation of this Act.

Uncorroborated accomplice testimony

Sec. 24 (a). Upon a trial for a violation of any of the provisions of this Act a conviction may be had upon the uncorroborated testimony of an accomplice. [As added Acts 1937, 45th Leg., 2nd C.S., H.B. #130, § 2.]

Effective Oct. 26, 1937.	the act should take effect from and after
Section 3 of the amendatory act of 1937	its passage.
declared an emergency and provided that	

Constitutionality

Sec. 25. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not

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affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Interpretation

Sec. 26. This Act shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those States which enact it.

Inconsistent laws repealed

Sec. 27. All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed. Chapter 35, Page 45, Acts of the Regular Session of the Twenty-ninth Legislature, 1905, as amended by Chapter 150, Page 277, Acts of the Regular Session of the Thirty-sixth Legislature, 1919, as amended by Chapter 61, Page 156, Acts of the Second Called Session of the Thirty-sixth Legislature, 1919;¹ Chapter 150, Page 277, Acts of the Regular Session of the Thirty-sixth Legislature, 1919,² Chapter 97, Page 154, Acts of Regular Session, Forty-second Legislature, 1931, as amended by Chapter 204, Page 609, Acts, Regular Session, Forty-third Legislature, 1933,³ are hereby expressly repealed.

Name of Act

Sec. 28. This Act may be cited as the Uniform Narcotic Drug Act.

Time of taking effect

Sec. 29. This Act shall take effect and be in full force ninety (90) days after date of final adjournment. [Acts 1937, 45th Leg., H.B. # 440.]

¹ Penal Code, arts. 720-722.

² Penal Code, arts. 723-725.

³ Penal Code, art. 725a.

Effective 90 days after May 22, 1937, date of adjournment.

Section 30 of this Act declared an emergency, but section 29 makes the Act effective 90 days after date of final adjournment.

Title of Act:

An Act defining certain words and phrases as used herein; regulating and controlling the production, preparation, manufacture, possession, transportation, sale, disposition, and use of coca leaves, cocaine, opium, pyote, mescal beans, morphine, codeine, cannabis, heroin, and any compound, manufacture, salt, derivative, mixture, and preparation thereof, or of either of them; providing for licenses to persons manufacturing, compounding, mixing, cultivating, growing, or otherwise producing narcotic drugs and for wholesalers thereof; providing for an annual license fee; providing the Department of Public Safety may revoke license for cause; providing to whom manufacturer or wholesaler may sell narcotic drugs; official return and orders for such sales; when possession or control of narcotic drugs lawful; limitation on right of designated persons to administer narcotic drugs; providing for sales by apothecaries upon prescription; what prescription to state; preservation and nonrefilling of prescription; sale of stock by legal owner discontinuing dealing in narcotic drugs;

sales by apothecaries of solutions containing narcotic drugs; providing for prescription for, or administering, narcotic drugs by physicians or dentists; what prescription to state; providing for return of unused drugs; prescription for, or administering, narcotic drugs by veterinarians; what prescription to state; providing to what acts or sales provisions of Act do not apply; to what conditions, exceptions subjected; when no limit on kind and quantity of narcotic drug prescribed or sold; providing for records to be kept by physicians, dentists, veterinarians, and other authorized persons, for records to be kept by manufacturers and wholesalers, for records to be kept by apothecaries, for records to be kept by vendors of exempted preparations; form of records prescribed by State Board of Pharmacy; what records to state; preservation thereof; record of narcotic drug laws destroyed or stolen; providing what labels to be affixed to narcotic drugs in packages and what said labels to state; what labels to be affixed to narcotic drugs sold by pharmacists on prescription and what said labels to state; when narcotic drugs to remain in container in which sold; providing to whom provisions of Act restricting possession and control of narcotic drugs do not apply; providing that any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or other place deemed a common

nuisance for purposes of Act; providing that narcotic drugs manufactured, sold, or had in possession in violation of this Act are contraband and subject to seizure and confiscation; providing for seizure of contraband narcotic drugs without warrants; providing for issuance of search warrants by magistrates upon proper information to search for and seize contraband narcotic drugs; providing for the forfeiture of and disposal of forfeited narcotic drugs; records to be kept for the Department of Public Safety; providing to whom copy of judgment and sentence, on conviction of violation of Act, to be sent; suspension or revocation by Court of license on conviction of defendant; reinstatement of license or registration; providing for inspection of prescriptions, orders, and records and stocks of narcotic drugs by officers charged with the duty of enforcing the provisions of this Act; when officer may divulge knowledge obtained by such inspection; prohibiting the obtaining of narcotic drugs by fraud, deceit, misrepresentation, or subterfuge, by forgery or alteration of prescription or written order, by concealment of material fact, by use of false name or false address; providing when communication to physician not privileged; prohibiting false statement in prescription order, report, or record; prohibiting the false assumption of title of manufacturer, wholesaler, apothecary, physician, dentist, veterinary, or other authorized person for the purpose of obtaining narcotic drugs; prohibiting the forgery of prescription or written order; providing that provisions of Section 20 apply to transactions under Section 8 hereof; providing that in any indictment, information, or complaint hereunder, it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this Act; placing burden of proof thereof upon defendant; provid-

ing who shall enforce the provisions of this Act and providing for their cooperation with agencies of other States and Federal Government, which agencies are charged with the enforcement of laws relating to narcotics; appropriating Twenty Thousand Dollars (\$20,000) out of the General Fund of this State to insure the adequate enforcement of the provisions of this Act; providing for the Department of Public Safety to pay the salary of an Assistant Attorney General specifically designated to help administer and enforce the provisions of this Act out of such appropriation; providing penalty for violation of Act; providing that suspended sentence law shall not be available to person convicted for violation of Act; providing that no prosecution for violation if previously acquitted or convicted of same violation under Federal Narcotic Act; providing that if any provision hereof is held to be invalid, their provisions will not be affected; providing for the rule of construction of this Act; repealing Chapter 35, Page 45, Acts of the Regular Session of the Twenty-ninth Legislature, 1905, as amended by Chapter 150, Page 277, Acts of the Regular Session of the Thirty-sixth Legislature, 1919, as amended by Chapter 61, Page 156, Acts of the Second Called Session of the Thirty-sixth Legislature, 1919; Chapter 150, Page 277, Acts of the Regular Session of the Thirty-sixth Legislature, 1919, Chapter 97, Page 154, Acts of Regular Session, Forty-second Legislature, 1931, as amended by Chapter 204, Page 609, Acts, Regular Session, Forty-third Legislature, 1933, repealing all laws or parts of laws inconsistent herewith; providing how this Act shall be cited; providing when this Act shall take effect; and declaring an emergency. [Acts 1937, 45th Leg., H.B.#440.]

Art. 726a. [Repealed by Acts 1937, 45th Leg., H.B. #669, § 1.]

Effective May 5, 1937.

CHAPTER SEVEN—DENTISTRY

Art.

752b. Unprofessional conduct [New].

752c. Licenses, refusing, revoking, canceling, and suspending of [New].

Art. 752. Use of own proper name instead of corporate or trade name; practice as partnership

It shall be unlawful for any person or persons to practice dentistry in this State under the name of a corporation, company, association, or trade name; or under any name except his own proper name, which shall be the name used in his license as issued by the State Board of Dental Examiners. It shall be unlawful for any person or persons to operate, manage, or be employed in any room, rooms, office, or offices where dental service is rendered or contracted for under the name of a corporation, company, association, or trade name, or in any other name than that

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of the legally qualified dentist or dentists actually engaged in the practice of dentistry in such room, rooms, office, or offices; provided, however, this shall not prevent two or more legally qualified dentists from practicing dentistry in the same offices as a firm, partnership, or as associates in their own names as stated in licenses issued to them. Provided, however, that any dentist practicing under his own license may be employed by any person, firm or partnership practicing dentistry under licenses issued to them. Each day of violation of this Article shall constitute a separate offense. [As amended Acts 1937, 45th Leg., H.B. # 36, § 1.]

Effective January 1, 1938.

Section 11 of the amendatory Act of 1937 declared an emergency and provided

that the Act should take effect from and after its passage.

Art. 752b. Unprofessional conduct

It shall be unlawful for any person, firm, or corporation to engage in or be guilty of any unprofessional conduct in the practice of dentistry, directly or indirectly. Any "unprofessional conduct," as used herein, means and includes any one or more of the following acts, to wit:

(a) employing "Cappers" or "Steerers" to solicit and/or obtain business;

(b) obtaining any fee by fraud or misrepresentation;

(c) employing directly or indirectly or permitting any unlicensed person to perform dental services upon any person in any room or office under his or her control;

(d) circulate any statements as to the skill or method of practicing dentistry of any person through the means of bills, posters, circulars, cards, stereopticon slides, motion pictures, radios, newspapers, or other advertising agencies or devices;

(e) making use of any advertising statements of a character tending to mislead or deceive the public;

(f) advertising professional superiority or the performance of professional services in a superior manner;

(g) advertising prices for professional services in the practice of dentistry, or comparative values thereof;

(h) advertising bargains, cut rates, or special values in dental services or productions with or without specifying the time they shall apply;

(i) advertising any free dental work or free examination;

(j) advertising to guarantee any dental services;

(k) advertising to perform any dental operation painlessly;

(l) publishing or circulating reports of cases or statements of patients in any newspaper, or to circulate same in any other way whatsoever;

(m) advertising by any means, the using of any secret anesthetic, drug, formula, medicine, method, or system;

(n) employing any person or persons to obtain, contract for, sell or solicit patronage, or making use of free publicity press agents;

(o) advertising by means of large display signs, or glaring light signs, electric or neon, or such signs containing as a part thereof the representation of a tooth, teeth, bridgework, plates of teeth or any portion of the human head, or using specimens of such in display, directing the attention of the public to any such person or persons engaged in the practice of dentistry;

(p) advertising dental plates, or restorations, or the materials used in their construction, under any fictitious, fancy, or unscientific names unapproved by the dental profession, or manufacturers of such materials and which cannot be identified by the patient;

(q) advertising to the public any commercial dental laboratory or dental clinic;

(r) giving a public demonstration of skill or methods of practicing dentistry for the purpose of securing patronage;

(s) forging, altering, or changing any diploma, license, registration certificate, transcript, or any other legal document pertaining to the practice of dentistry, being a party thereto, or beneficiary therein, or making any false statement about or in securing such document, or being guilty of misusing the same;

(t) using any photostat, copy, transcript, or any other representation in lieu of a diploma, license, or registration certificate as evidence of authority to practice dentistry.

Provided, that any duly licensed practitioner of dentistry may publicly announce by way of newspaper or professional card that he is engaged in the practice of dentistry, giving his name, degree, office location where he is actually engaged in practice, office hours, telephone numbers and residence address; and if he limits his practice to a specialty, he may state same. [As added Acts 1937, 45th Leg., H.B. # 36, § 2.]

Effective January 1, 1938.

Section 2 of the Act of 1937, cited to the text, purports to amend "Chapter 7, Title 12 of the Penal Code of 1925, as amended by Section 16, Chapter 244, page 606 of the Acts of the Regular Session of the Forty-fourth Legislature" by adding "thereto immediately after Article 752 a

new Article to be entitled 752a." As such section 16 of the 44th Leg. purported to amend. ch. 7 of title 12 by adding a new article to be known as art. 752a, which appears as art. 752a of this title, the new article added by the Act of 1937, cited to the text, appears as art. 752b of this title.

Art. 752c. Licenses, refusing, revoking, cancelling, and suspending of

Sec. 3. The State Board of Dental Examiners shall be and they are hereby authorized to refuse to grant a license to practice dentistry to any person or persons who have been guilty, in the opinion of said Board, of violating any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry, or any provisions of Chapter 7 of Title 12 of the Penal Code of the State of Texas,¹ within twelve (12) months prior to the filing of an application for such license.

Revocation, cancellation, or suspension of license

Sec. 4. The State Board of Dental Examiners shall be, and it shall be their duty, and they are hereby authorized to revoke, cancel or suspend any license or licenses that may have been issued by such Board, if in the opinion of a majority of such Board, any person or persons to whom a license has been issued by said Board to practice dentistry in this State, shall have, after the issuance of such license, violated any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry in this State, or any of the provisions of Chapter 7, Title 12 of the Penal Code of the State of Texas, or any amendments that may hereafter be made thereto. Provided, however, that if a majority of such Board shall be of the opinion that any person or persons to whom a license has been issued by said Board shall have violated any of the provisions of said Statutes or Penal Code, such Board shall first have an order entered in the Records of said Board declaring it to be the opinion of the majority of such Board that such person or persons have so violated the provisions of said Statutes or Penal Code, within twelve (12) months prior to the date of such order, and shall mail by registered mail to the last known address of such person or persons a copy of such order, together with notice that if such alleged violations of said Statutes and Penal Code are not discontinued by such person or persons within ten (10) days after the mailing of such notice, or satisfactory evidence produced showing

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

such alleged violations did not occur, that such Board will proceed to revoke, cancel or suspend the license of such person or persons alleged to have violated said Statutes and Penal Code. Such order and such notice shall state the alleged violations of such Statutes and Penal Code as are to be relied upon by said Board as grounds for the cancellation of such License. If, from and after ten (10) days from the mailing of such notice, the person or persons to whom such notice or notices have been sent shall in the opinion of said Board have failed and refused to desist from the violation complained of and set out in said order and said notice, or failed to show satisfactory evidence that such violations did not occur, said Board shall proceed to set a time and place, not less than ten (10) nor more than thirty (30) days, for a hearing to consider the revocation, cancellation or suspension of such license or licenses; and a copy of such order shall be sent by registered mail to the person or persons alleged to have violated the provisions of said Statutes and Penal Code, not less than five (5) days prior to the date set for the hearing thereon. Such order and such notice shall likewise state the grounds alleged to have been violated, as provided in the first order herein. At the time and date set in said order and said notice for such hearing, the person or persons alleged to have violated the provisions of the Statutes of the State of Texas relating to dentistry, or the provisions of said Chapter 7, of Title 12 of the Penal Code, may appear before said Board and show cause, if any he has, why said license should not be revoked, cancelled, or suspended. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board. After such hearing, the Board shall enter an order in its minutes dismissing such charges or revoking, cancelling or suspending for a time to be fixed by the Board, not to exceed twelve (12) months, the license or licenses of the person or persons accused, as in the opinion of the Board the facts brought out at such hearing justify and require. Provided, however, that any order cancelling or revoking or suspending such license or licenses shall be signed by a majority of such Board and by all the members of such Board present at such hearing. Provided that when the license of such licensee is revoked or cancelled he shall be allowed to continue the practice of his profession pending appeal upon his giving a supersedeas bond in such amount as shall be set by the District Court, conditioned to faithfully observe the law.

Appeal to court

Sec. 5. If said Board shall make and enter any order cancelling or suspending any license or licenses as hereinabove provided, the person or persons whose license shall have been so cancelled and revoked or suspended may, within thirty (30) days after the making and entering of such order, take an appeal to the District Court of the county in which the alleged offense occurred by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party or parties filing same, as plaintiff, and the State Board of Dental Examiners, as defendant. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board by the person or persons accused, and after citation in such cause has been issued and served as in other civil cases, to prepare and transmit to such District Court upon notice from such Court a transcript of the orders hereinabove provided for, the same to be certified as true and correct by the Secretary of said Board. Such District Court shall thereafter and under the rules of procedure applicable to other civil cases, proceed to set such cause for hearing as in other civil cases. Upon the hearing of such cause, if such Court shall find that the action of such Board, in cancelling or revoking or suspending such license or licenses is

not well taken or that same would or might deprive such licensee unjustly of his license to practice dentistry in this State, such Court shall by appropriate order and judgment set aside such action of said Board; but if such Court shall sustain such action of said Board in cancelling and revoking or suspending such license or licenses, an order shall be made and entered in appropriate form sustaining and affirming the action of such Board, from which order an appeal may be taken to the Court of Civil Appeals, as in other civil causes. If no appeal be taken from such order of such Court within thirty (30) days, the same shall become final. If an appeal be taken from the District Court to a Court of Civil Appeals, the order of such Court shall become final within thirty (30) days after the making and entry of such order by such Court of Appeals. Provided in all such cases of appeal that the Court shall give preference to same, and advance them on the docket of said Court so that speedy action may be had; providing also that trial in the District Court shall be de novo.

Additional offices

Sec. 6. This Act shall not be intended to prohibit any duly authorized, licensed and registered dentist from maintaining one additional office in any town or city other than the town of his residence.

Penalty

Sec. 7. If any person or persons shall practice or offer to practice dentistry in this State, or hold himself out as practicing dentistry in this State after such order revoking or cancelling his license to practice dentistry shall have become final, as herein provided, or during the period of the suspension of such license after such suspension has become final, he shall be punished by fine in any sum not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

Provisions cumulative; conflicting laws repealed

Sec. 8. This Act shall be cumulative of all laws now in effect providing for the revoking, cancelling or suspending of licenses for the practice of dentistry or dental surgery in this State, except in so far as the provisions hereof may conflict with other laws now in effect. And all laws or parts of laws in conflict herewith are hereby repealed. [Acts 1937, 45th Leg., H.B. # 36.]

¹ Penal Code, articles 747 to 754a.

Effective January 1, 1938.

Section 1 of this Act amended Article 752 of the Penal Code, and Section 2 added a new article, set out as Article 752b of the Penal Code.

Section 9 of the amendatory Act of 1937 reads as follows: "If any article, section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining por-

tions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared unconstitutional."

Section 10 makes the Act effective January 1, 1938. Section 11 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER ELEVEN—MISCELLANEOUS

Art.

782a. Industrial homework — definitions
[New].

Art. 782a. Industrial homework—definitions

Section 1. Whenever used in this Act:

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

"To manufacture" includes to prepare, alter, repair, or finish in whole or in part for profit and compensation.

"Person" includes a corporation, copartnership, or a joint association.

"Employer" means any person who, directly or indirectly or through an employee, agent, independent contractor, or any other person, delivers to another person any materials or articles to be manufactured in a home and thereafter to be returned to him, not for the personal use of himself or of a member of his family.

"Home" means any room, house, apartment, or other premises, which ever is most extensive, used in whole or in part as a place of dwelling.

"Industrial homework" means any manufacture in a home of materials or articles for an employer.

"Board" means the State Board of Health.

Prohibited homework

Sec. 2. No permit or certificate shall be issued under this Act to authorize the manufacture or the delivery of materials for the manufacture of articles, the manufacture of which by industrial homework is determined by the Board to be injurious to the health or welfare of the industrial homeworkers within the industry, or to the general public, or to render unduly difficult the maintenance of existing health standards or the enforcement of health standards established by law or regulation for factory workers in the industry.

Power to prohibit

Sec. 3. The State Board shall have the power to make an investigation of any industry which employs industrial homeworkers, in order to determine if conditions of employment of industrial homeworkers in such industry are injurious to their health and welfare. If, on the basis of information in its possession, after an investigation, as provided in this Section, the Board shall find that industrial homework cannot be continued within an industry without injuring the health and welfare of the industrial homeworkers within that industry, or the general public, the Board of Health shall by order declare such industrial homework unlawful as provided in Section 2 and require all employers in such industry to discontinue the furnishing within this State of material for industrial homework, and no permit issued under this Act shall be deemed thereafter to authorize the furnishing of materials for industrial homework prohibited by such order.

Procedure

Sec. 4. Before making such order the Board shall hold a public hearing or hearings at which an opportunity to be heard shall be afforded to any employer, or representative of employers, and any industrial homeworker or representative of industrial homeworkers, and any other person or persons having an interest in the subject matter of hearing. A public notice of such hearing shall be given at least thirty (30) days before the hearing is held and in such manner as may be determined by the Board. Such hearing or hearings shall be in such place or places as the Board deems most convenient to the employer and industrial homeworkers to be affected by such order. The Board shall determine the effective date of such order, which date shall be not less than ninety (90) days after the date of its promulgation.

Employer's permit

Sec. 5. No materials for manufacture by industrial homework shall be delivered to any person in this State unless the employer so deliver-

ing them or his agent, if the employer is not a resident of this State, has obtained a valid employer's permit from the Board. Such permit shall be issued upon payment of a fee of Fifty Dollars (\$50), and shall be valid for a period of one year from the date of its issuance, unless sooner revoked or suspended. Application for such permit shall be made in such form as the Board may by regulation prescribe. No employer shall deliver or cause to be delivered any materials or articles for manufacture by industrial homework to a person who is not in possession of a valid employer's permit or homemaker's certificate, issued in accordance with this Act. The Board may revoke or suspend any employer's permit if it finds that the employer has violated this Act or has failed to observe or comply with any provision of his permit.

Homeworker's certificate

Sec. 6. No person shall engage in industrial homework within this State unless he has in his possession a valid homeworker's certificate issued to him by the Board. Such certificate shall be issued upon the payment of a fee not to exceed Fifty (50) Cents and after the person applying for such certificate shall present and furnish a health certificate or other evidence showing good health as may be required by the Board and shall be valid for a period of one year from the date of its issuance, unless sooner revoked or suspended. Application for such certificate shall be made in such form as the Board may by regulation prescribe. Such certificate shall be valid only for work performed by the applicant himself in his own home. No homeworker's certificate shall be issued to any person under the age of fifteen (15) years or to any person suffering from an infectious, contagious, or communicable disease, or living in a home that is not clean, sanitary, and free from infectious, contagious, or communicable disease. The Board may revoke or suspend any homeworker's certificate if it finds that the industrial homeworker is performing industrial homework contrary to the conditions under which the certificate was issued or in violation of this Act or has permitted any person not holding a valid homeworker's certificate to assist him in performing his industrial homework.

Labels required

Sec. 7. No employer shall deliver or cause to be delivered to any person any materials or articles to be manufactured by industrial homework unless there has been conspicuously affixed to each article or, if this is impossible, to the package or other container in which such goods are delivered or are to be kept, a label or other trade-mark of identification bearing the employer's name and address, printed or written legibly in English.

Unlawfully manufactured articles

Sec. 8. Any article which is being manufactured in a home in violation of any provision of this Act may be removed by the Board and may be retained until claimed by the employer. The Board shall by registered mail give notice of such removal to the person whose name and address are affixed to the article as provided in Section 7. Unless the Article so removed is claimed within thirty (30) days thereafter, it may be destroyed or otherwise disposed of.

Records to be kept

Sec. 9. No person having an employer's permit shall deliver or cause to be delivered or received any article for, or as a result of, industrial homework unless he shall keep in such form and forward to the Board at such intervals as it may by regulation prescribe, and on such blanks as it may provide, a record of all persons engaged in industrial homework on materials furnished or distributed by him, of all places where such

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

persons work, of all articles which such persons have manufactured, of all agents or contractors to whom he had furnished materials to be manufactured by industrial homework, and of all persons from whom he has received materials to be so manufactured. This information and record shall be for the sole benefit of aiding the Board to enforce the provisions of this Act and shall not be for publication and shall not be divulged except to authorized representatives of the Board in the enforcement of this Act.

Enforcement

Sec. 10. The Board shall have the power and it shall be its duty to enforce the provisions of this Act. The Board and authorized representatives of the Board are authorized and directed to make all inspections and investigations necessary for the enforcement of this Act. Rules and regulations necessary to carry out the provisions of this Act shall be made by the Board and violation of any such rule or regulation shall be deemed a violation of this Act.

Oaths and affidavits; hearings and subpoenas

Sec. 11. In matters relating to this Act, the Board or its duly authorized representative may administer oaths, take affidavits, and issue subpoenas for and compel the attendance of witnesses and the production of books, contracts, papers, documents, and other evidence of whatever description; may hear testimony under oath and take or cause to be taken depositions of witnesses residing within or without this State in the manner prescribed by law for like depositions in civil actions in the Justice of the Peace Court. Subpoenas and commissions to take testimony shall be issued under seal of the Board of Health.

Penalties

Sec. 12. In addition to any penalties otherwise prescribed in this Act, any employer who delivers or causes to be delivered to another person any materials for manufacture by industrial homework without having in his possession a valid employer's permit as required by Section 5 of this Act, or any employer who refuses to allow the Board or its authorized representative to enter his place of business for the purpose of making investigations authorized by this Act or necessary to carry out its provisions, or who refuses to permit the Board or its authorized representative to inspect or copy any of his records or other documents relating to the enforcement of this Act, or who falsifies such records or documents or any statement which he is required by the commissioner acting under authority of this Act to make, or any employer who otherwise violates this Act or any provision of this permit, shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) or by imprisonment for not less than thirty (30) nor more than sixty (60) days or by both such fine and imprisonment. [Acts 1937, 45th Leg., H.B. # 424.]

Effective June 9, 1936.

Section 13 provided as follows: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby."

Section 14 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act regulating industrial homework; defining certain terms; prohibiting certain forms of industrial homework; empowering the Board of Health to enforce the provisions of this Act; prescribing the procedure to be used by the Board of Health; requiring an employer's permit for industrial homework and providing a license fee therefor; requiring a certificate for any person who shall engage in industrial

homework; requiring all materials or articles manufactured by industrial homework to be labeled with the employer's name and address; providing that articles unlawfully manufactured by homework may be seized by the Board of Health; requiring an employer to keep records of industrial homework; making it the duty of the Board of Health to enforce

the provisions of this Act; authorizing the Board of Health or its authorized representatives to administer oaths and take affidavits; providing a penalty; providing if any part of the Act is declared invalid the remainder of the Act shall not be affected; and declaring an emergency. [Acts 1937, 45th Leg., H.B.#424.]

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art.

827aa. County highway patrolmen authorized in certain counties [New].

Art.

827e. Traffic signals on State Highways outside cities and towns [New].

Art. 802. Driver intoxicated or under influence of intoxicating liquor

Any person who drives or operates an automobile or any other motor vehicle upon any street or alley, or any other place within the limits of any incorporated city, town, or village, or upon any public road or highway in this State while such person is intoxicated, or in any degree under the influence of intoxicating liquor, shall upon conviction be confined in the penitentiary for not more than two (2) years, or be confined in the county jail for not less than five (5) days nor more than ninety (90) days and fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). [As amended Acts 1937, 45th Leg., H.B. # 120, § 1.]

Effective March 22, 1937.

. Section 2 of the amendatory act of 1937 declared an emergency and provided that

the act should take effect from and after its passage.

Art. 827aa. County Highway Patrolmen authorized in certain counties

The Commissioners' Courts of Counties containing not less than eleven thousand nine hundred eighty (11,980) inhabitants [inhabitants] and not more than twelve thousand one hundred (12,100) inhabitants, according to the last preceding Federal Census shall from and after the passage of this Act be empowered to appoint not more than five (5) County Highway Patrolmen for such County, which appointment for Highway Patrolmen shall be limited to the Sheriff or any of his duly appointed Deputies, and any Constable or his duly appointed Deputies, whose duty it shall be to patrol all County Public Roads for the purpose of enforcing the Highway laws of this State, regulating the use of public Highways by motor vehicles. Said County Highway Patrolmen shall have authority to weigh all motor vehicles, if said officer has reasons to believe that the gross weight of any loaded motor vehicle is unlawful and said officer shall have the authority to require such motor vehicle to be driven to the nearest scale, provided however, that such scale is not more than two (2) miles distant and said officer shall have authority to cause said motor vehicle to be unloaded to the extent that the gross weight of such motor vehicle shall not exceed the maximum allowed under the laws of the State of Texas.

Said County Highway Patrolmen may as such be dismissed by said Commissioners' Courts on their own initiative, whenever their services are no longer needed or have proven unsatisfactory, and said County

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Highway Patrolmen shall as such, receive no compensation from the Commissioners' Court. [Acts 1937, 45th Leg., S.B. # 495, § 1.]

Effective May 28, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the appointment of County Highway Patrolmen by the Com-

missioners' Courts of Counties containing not less than eleven thousand nine hundred eighty (11,980) inhabitants, and not more than twelve thousand one hundred (12,100) inhabitants, according to the last preceding Federal Census; and declaring an emergency. [Acts 1937, 45th Leg., S.B. #495.]

Art. 827e. Traffic signals on State Highways outside cities and towns

Section 1. There may be installed at such points on State Highways as may be approved and directed by the State Highway Engineer of the State of Texas, signal units to be used as a means of controlling and regulating traffic, both vehicular and pedestrian, by the use of lights placed in such units. Such lights shall consist of red lights, amber (yellow) lights and green lights. Said signal unit shall be suspended above the center of said State Highways and installed under the direction of the State Highway Engineer, or any resident engineer of the State Highway Department.

At the display of the red light all traffic approaching such displayed light shall come to a complete stop; at the display of the amber (yellow) light, traffic shall prepare to move forward, and at the display of the green light traffic shall proceed to move forward.

Sec. 2. Any person who shall fail to stop after approaching a signal unit which has been installed and is being operated when the red light signal or the amber (yellow) signal is displayed on the side of such signal toward which he is approaching, shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine in any sum not to exceed Two Hundred (\$200.00) Dollars.

Sec. 3. It shall not be necessary for the State to prove the installation of such signal units, or the approval and direction of the State Highway Engineer, but any person charged with a violation of this Act shall have the right to prove same was not so approved and installed as a defense.

Sec. 4. This Act shall not apply to, or be construed as in conflict with any city ordinance of any incorporated city or town within this State, but shall be construed as applying only to points on State Highways outside the limits of incorporated cities and towns. [Acts 1937, 45th Leg., S.B. # 200.]

Effective March 11, 1937.

Section 5 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the installation of

signal units on State Highways outside of incorporated cities and towns, regulating the crossing of such highways at places where such units are installed by vehicles and pedestrians, fixing a penalty and declaring an emergency. [Acts 1937, 45th Leg., S.B. # 200.]

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.

879a—4. Open season for mourning doves and white-winged doves [New].

879f—4. Closed season for prairie chicken [New].

Art.

923qa. License to trap fur bearing animals or traffic in pelts required—definitions [New].

978m. Coastal Division of Game, Fish and Oyster Commission created [New].

Art. 879a—4. Open season for mourning doves and white-winged doves

Section 1. The open season for taking mourning doves and white-winged doves in this State shall be as follows: In Yoakum, Terry, Lynn,

Garza, Kent, Stonewall, King, Cottle, and Childress Counties and in all counties north and west thereof, and in the counties of Cooke, Grayson and Fannin, Hardeman, Foard, Knox, Wilbarger, Baylor, Wichita, Archer, Young and Clay, during the period September 1st to October 31st. In the remainder of the State the open season shall be during the period September 15th to November 15th except that in that portion of the State lying south of the south right of way line of the Texas-Mexican railroad which runs from Laredo to Corpus Christi (but this exception shall not apply in Webb and Zapata Counties) it shall be lawful to hunt, take, or kill mourning doves or white-winged doves only on each Sunday, Tuesday, Thursday and Saturday from September 15th to November 15th of each year, and on no other days.

Bag limit and possession limit

Sec. 2. It shall be unlawful for any person to take more than fifteen (15) mourning doves or more than fifteen (15) white-winged doves or an aggregate of more than fifteen (15) of both species during any one day, and it shall be unlawful for any person to have in possession at any one time more than one day's limit of such birds.

Hours for shooting

Sec. 3. It shall be unlawful to hunt mourning doves or white-winged doves during the open season provided for hunting same, except during the hours from 7:00 a. m. to sunset.

Regulations as to shot guns used for shooting migratory and other game birds

Sec. 4. It shall be unlawful to hunt or shoot mourning doves, white-winged doves, or any migratory bird, or any other game bird of this State with a shotgun larger than ten-gauge and that is capable of holding more than three (3) shells at one loading, including the shell that may be held in the chamber of such gun, and providing that if a magazine-loading gun is used and the magazine of such gun would otherwise hold more than two (2) shells, before such gun is used it shall be permanently plugged so that such magazine will be rendered incapable of holding more than two (2) shells.

Penalty

Sec. 5. Any person who takes or attempts to take any mourning dove or white-winged dove at any time other than the open season provided in this Act for taking same, or any person who otherwise violates any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50) and each bird taken or possessed in violation of any provision of this Act shall constitute a separate offense. [Acts 1937, 45th Leg., 2nd C.S., H.B. #31.]

Effective Oct. 12, 1937.

Sec. 6 of this Act provided that: "All laws or parts of laws of this State in conflict with any provision of this Act, and specifically all of the laws of this State fixing an open season for taking mourning doves or white-winged doves and bag limits or possession limits for taking same, be and the same are hereby repealed to the extent of such conflict only."

Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

For similar act, applicable to Collin, Dallas, Delta, Denton, Franklin, Haskell, Hopkins, Jack, Johnson, Kaufman, Montague, Parker, Rockwall, and Wise Coun-

ties, only, see Acts 1937, 45th Leg., 2nd C. S., H.B. # 163, set out in notes to Vernon's Ann.Pen.Code Art. 978j.

Title of Act:

An Act providing the time when mourning doves and white-winged doves may be shot in this State; making certain exceptions; fixing the bag limit and possession limit of same; fixing the hours for shooting and making regulations for shotguns that may be used for shooting migratory birds and other game birds; providing a penalty for the violation of any such regulations; repealing all laws in conflict with any section of this Act; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 31.]

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

Art. 879f—4. Closed season for prairie chicken

Section 1. It shall be unlawful to take, hunt, trap, shoot, or kill any prairie chicken in the State of Texas for a period of five (5) years from and after the effective date of this Act.

Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200).

Sec. 3. The provisions of this law shall be accumulative of all general laws on the subject not in actual conflict herewith, and all laws and parts of laws in conflict herewith are hereby repealed in so far as such laws are in actual conflict with the provisions of this Act in its local application, and in case of such conflict the provisions of this Act shall control and be effective. [Acts 1937, 45th Leg., 1st C.S., H.B. #30.]

Effective 90 days after June 25, 1937, date of adjournment.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act declaring it unlawful to take, hunt, trap, shoot, or kill any prairie chick-

en in the State of Texas for a period of five (5) years; prescribing penalty for violation of the provisions of this Act; making the Act accumulative; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., H.B. #30.]

Art. 879g. Wild buck deer and wild bear

There shall be an open season, or period of time, when it shall be lawful to hunt, take, or kill wild buck deer and wild bear, in both the North and South Zones, November 16th to December 31st of each year, both days inclusive; provided, however, it shall be unlawful for any person or persons to hunt, take, or kill wild deer for a period of five (5) years, from and after November 15, 1929, in any of the following Counties: Callahan, Eastland, Stephens, Palo Pinto, and Shackelford. That it shall not be unlawful to hunt, kill, or take wild bear within the territorial limits of Polk County, Texas. [As amended Acts 1937, 45th Leg., H. B. # 1177, § 1.]

Section 3 of the 1937 amendment makes the Act effective February 1, 1938.

Section 2 repeals all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 880. Hunting with dogs

It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting of or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs, and who permits or allows such dog or dogs to run, trail, or pursue any deer at any time, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than Twenty-five Dollars (\$25), and not more than Two Hundred Dollars (\$200); provided, however, that this Article shall not apply to the Counties of Brazoria, Matagorda, Wharton, Jackson, and Fort Bend. And, provided further, that it shall be lawful to use one dog for the purpose of trailing a wounded deer in the Counties of Kimble, Sutton, Edwards, Medina, Dimmit, Uvalde, Zavala, Kerr, Mason, Gillespie, Tom Green, Shackelford, San Saba, Llano, Blanco, Burnet, Bandera, Comal, Real, Kendall, Wharton, Schleicher, Crockett, Guadalupe, Jackson, Wilson, Concho, Karnes, Jones, Atascosa, Baylor, Bexar, Brewster, Caldwell, Denton, DeWitt, Frio, Gonzales, Haskell, Hays, Hidalgo, Jack, Kaufman, and Cameron; and providing further, that it shall be lawful to use one dog for the purpose of hunting, pur-

suing, and taking of deer in Jefferson, Montgomery, and Orange Counties." [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #111, § 1.]

Effective Oct. 25, 1935.

Section 2 of the amendatory act of 1937 the act should take effect from and after declared an emergency and provided that its passage.

Sec. 1A. It shall be lawful to use one dog for the purpose of hunting or pursuing or taking of any deer in the County of Tyler. [As added Acts 1937, 45th Leg., 2nd C.S., H.B. #114, § 1.]

Effective Nov. 3, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Art. 923qa. License to trap fur bearing animals or traffic in pelts required—definitions

Section 1. For the purpose of this Act the following words, terms, and phrases are hereby defined:

(a) "Wholesale Fur Buyer." A Wholesale Fur Buyer is any person who purchases for himself or on behalf of another person, the pelt or pelts of any of the fur-bearing animals of this State from a Retail Fur Buyer and/or from the Trapper.

(b) "Retail Fur Buyer." A Retail Fur Buyer is any person who purchases the pelt or pelts of any of the fur-bearing animals of this State from the Trapper only.

(c) "Trapper." A Trapper is any person who takes for the purpose of barter or sale, and who sells or offers for sale, the pelt or pelts of any of the fur-bearing animals of this State.

(d) "Person," shall include the plural as well as the singular, as the case demands, and shall include individuals, partnerships, associations, and corporations.

Licenses required; cost of license; expiration of license

Sec. 2. Before any person shall operate in this State as a Wholesale Fur Buyer, Retail Fur Buyer, or Trapper, he shall be required to obtain and have in his possession a valid license entitling him to the privileges given in this Act and to no other privileges. Such license or licenses shall be obtained from the Game, Fish and Oyster Commission, or from one of their authorized agents.

(a) A Wholesale Fur Buyer's license may be purchased for the sum of Twenty-five Dollars (\$25) and shall entitle the holder to the privilege of purchasing the pelts of fur-bearing animals in this State from Trappers, Retail Fur Buyers, and Wholesale Fur Buyers, and the privilege of handling such pelts for shipment and sale.

(b) A Retail Fur Buyer's license may be purchased for the sum of Five Dollars (\$5) and shall entitle the holder to the privilege of purchasing the pelts of fur-bearing animals from the Trapper only and handling same for the purpose of shipment and sale.

(c) A Trapper's license may be purchased for the sum of One Dollar (\$1) and shall entitle the holder to sell only his own catch of the pelts of fur-bearing animals of this State, which he has lawfully taken.

All licenses provided for in this Section shall be valid until August 31st following date of issuance.

Moneys deposited to credit of special game fund

Sec. 3. All moneys collected from the sale of licenses provided for under the provisions of this Act, after the fees for issuing same are deducted, shall, before the 10th day of the month following the sale of such license, be remitted to the office of the Game, Fish and Oyster Com-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

mission at Austin, Texas, and shall be deposited in the State Treasury to the credit of the Special Game Fund and shall be used for any and all of the purposes provided by law. County Clerks and other authorized agents of the Game, Fish and Oyster Commission shall be entitled to a fee of Twenty (20) Cents for each license issued.

Wholesale or retail fur buyers' licenses for each place of business; display of license; license on person; inspection of vehicles used

Sec. 4. When a person, firm, or corporation operates as a Wholesale Fur Buyer or as a Retail Fur Buyer, a license shall be required for each place of business and be publicly displayed in said place of business at all times, and all such places of business shall be subject to inspection, without warrant, by any game and fish warden at any time. If a person operates as a Wholesale Fur Buyer, Retail Fur Buyer, or as a Trapper, other than at an establishment for which a license has been issued, he shall have on his person, whenever conducting such operations, the license required of him as a Wholesale Fur Buyer, Retail Fur Buyer, or Trapper, and any vehicle which he operates shall be subject to inspection, without warrant, by any game and fish warden at all times that such vehicle is being used for the collection of the pelts of fur-bearing animals or for the purpose of transporting same.

Repeal of conflicting laws

Section 5 of Acts 1937, 45th Leg., H.B. #759, purporting to repeal certain laws in conflict with that Act read as follows:

"Sec. 5. All laws or parts of laws, in so far as they conflict with any portion of this Act, and specifically that provision of law of this State requiring a tax tag to be attached to the pelt of each fur-bearing animal of this State before same is sold or

offered for sale,¹ and specifically the law of this State now in existence requiring a Trapper's license² and a Resident Fur Dealer's license³ or a Nonresident Fur Dealer's license,⁴ are hereby repealed."

¹ See art. 923q, §§ 4, 5.

² See art. 923q, § 2.

³ See art. 923q, § 6.

⁴ See art. 923q, § 6.

Purchase of pelts from unlicensed person unlawful; operation as wholesaler, retailer, or trapper without license unlawful

Sec. 6. It shall be unlawful for any Wholesale Fur Buyer or any Retail Fur Buyer to purchase the pelt of any fur-bearing animal of this State from any person unless such person holds a Trapper's license or a Wholesale Fur Buyer's license or a Retail Fur Buyer's license, and it shall be unlawful for any person to operate as a Wholesale Fur Buyer, Retail Fur Buyer, or Trapper, as defined in this Act, without first obtaining the license required for the business engaged in.

Penalty; forfeiture of license

Sec. 7. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), and any person convicted under any provision of this Act shall automatically forfeit any license which he may hold under any provision of this Act and shall not be permitted to obtain any license provided for under this Act for a period of one year from date of his conviction. [Acts 1937, 45th Leg., H.B. # 759.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 8 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Art. 923qa—4. Trapping fur bearing animals, exception of certain counties

Sec. 6. Provided that it shall be unlawful for any person to kill, take, or have in his possession for barter or sale within Caldwell, Milam, or Lee Counties, for a period of ten (10) years after the passage of this Act, any wild beaver, wild otter, or wild fox, or the pelts thereof. [Acts 1931, 42nd Leg., p. 440, ch. 264, as substituted Acts 1937, 45th Leg., H.B. # 503, § 1.]

Effective June 2, 1937.
Acts 1937, 45th Leg., H.B.#503, entitled: "An Act repealing Section 6, Article 923qa-4 of the Penal Code of Texas, so as to exempt Williamson County from a closed season of ten (10) years in the taking of wild beaver, wild otter, or wild fox, or the pelts thereof, and declaring an emergency.", in section 1 repealed section 6 of Acts 1931, 42nd Leg., p. 440, ch. 264, and substituted in lieu thereof section 6 as set out in this Article.
Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Art. 953a. Fishing in Young county

Section 1. It shall be unlawful for any person, firm or corporation, or their agent or agents, to barter or to sell or offer for barter or for sale, or to buy any bass, crappie, perch or catfish, or any other fish except minnows taken from any river, creek, lake, slough, bayou, tank or pond that flows or is situated within the boundary lines of Young County; provided however, that the Brazos River and the Clear Fork of the Brazos be excepted and not included in these waters situated within the boundaries of Young County; provided further, that it shall be unlawful for any person to place in the waters of the Clear Fork of the Brazos River situated within the boundaries of Young County, any seine, net or other device or trap for taking or catching fish with a mesh of less than two (2) inches square and on conviction thereof shall be fined not less than Five Dollars (\$5) nor more than Fifty Dollars (\$50); provided further, that it shall be unlawful for any person to retain or have in his possession any bass or channel catfish which are less than eleven (11) inches in length, or any crappie or white perch, or calico bass, or drum of less than eight (8) inches in length taken from the waters of the Clear Fork of the Brazos River situated within the boundaries of Young County and provided that fish of less than the described length shall be immediately returned to the waters where taken without necessarily injuring, and any person found guilty of a violation shall be fined not less than Five Dollars (\$5) nor more than Fifty Dollars (\$50). [Acts 1929, 41st Leg., 1st C.S., p. 41, ch. 12, as amended Acts 1936, 44th Leg., 3rd C.S., p. 2031, ch. 491, § 1.]

Effective Oct. 28, 1936.

Art. 978j. Deer in Anderson and other counties

Section 2 of the amendatory Act of 1936 declared an emergency and provided that the Act should take effect from and after its passage.
For fish and game laws applicable only to the named counties see notes under Vernon's Ann.Pen.Code, Art. 978j.

Art. 978m. Coastal Division of Game, Fish and Oyster Commission created

Section 1. There is hereby created a Division of the Game, Fish and Oyster Commission to be known and designated as the "Coastal Division of Game, Fish and Oyster Commission."

Director of Coastal Division and assistant; powers and duties of commission and delegation thereof

Sec. 2. The Game, Fish and Oyster Commission shall have power and authority, and it shall be their duty to appoint an executive officer for the said Coastal Division to be known and designated as "Director of Coastal Division," who shall act as the chief executive officer of the Division under the direction of said Game, Fish and Oyster Commission.

The Commission may perform its duties through said Director of Coastal Division and may delegate to his¹ such executive duties as said Game, Fish and Oyster Commission deems proper. Provided that in the absence of the Coastal Director the Commission shall be empowered to designate an assistant to perform his duties. Said Director of Coastal Division shall also have power and authority to appoint Game and Fish Wardens and other employees as in his discretion may be deemed necessary to carry out and enforce the laws of this State, which it is the duty of the Game, Fish and Oyster Commission to carry out, execute and administer, and to perform all other duties and services authorized and required to be performed by said Game, Fish and Oyster Commission, and shall have the power and authority of other employees of the Game, Fish and Oyster Commission. Said Director of Coastal Division shall serve at the will of said Game, Fish and Oyster Commission. The other employees of the Coastal Division shall serve at the will of the Director of Coastal Division.

¹ Probably should read "him".

Compensation of employees

Sec. 3. The compensation of all employees of the Coastal Division herein provided for shall be fixed by the Game, Fish and Oyster Commission; provided that the Legislature in each biennial appropriation bill shall fix the maximum compensation to be paid.

Bond of director, assistant director, and employees

Sec. 4. The Director of Coastal Division and Assistant Director of Coastal Division shall each enter into a good and sufficient bond in the sum of Two Thousand Dollars (\$2,000) payable to the State of Texas, to be approved by the Game, Fish and Oyster Commission, conditioned upon the faithful performance of his duties under the law. The premium on such bonds shall be paid by the State out of funds available to the Game, Fish and Oyster Commission. The Director of Coastal Division and Assistant Director of Coastal Division shall take the Constitutional Oath of Office. All other employees of the Coastal Division shall execute a bond in the sum of One Thousand Dollars (\$1,000), to be approved by the Director of Coastal Division, payable to the State of Texas and conditioned on the faithful performance of the duties of his office. The Game, Fish and Oyster Commission may require any employee who handles funds belonging to the Department to give a bond up to as high as Ten Thousand Dollars (\$10,000).

The Chairman nor the members of the Commission, the Director of Coastal Division nor Assistant Director of Coastal Division shall be liable on their respective bonds for any act of any employee of the Department, but on the other hand the bond of any such employee shall cover the individual acts of each.

Appropriation

Sec. 5. There is hereby appropriated out of the State Treasury all moneys now in the Fish and Oyster Fund and all moneys collected or to

be collected for such fund by the Game, Fish and Oyster Commission, under any laws of this State relating thereto, for the purpose of carrying out this Act or performing any duties or services under any laws of this State. [Acts 1937, 45th Leg., H.B. # 671.]

Section 6 of this Act made it effective September 1, 1937. Section 7 repeals all conflicting laws and parts of laws. Section 8 provided that the Act should take effect from and after its passage.

Local and special Acts relating to Coastal Zone and Gulf Coastal Zone, see Art. 978j, note.

Title of Act:

An Act creating the Coastal Division of Game, Fish and Oyster Commission; giving the power and making it the duty of the Game, Fish and Oyster Commission to appoint an Executive Officer for the

Division; providing that it may perform its duties through said officer; providing for the appointment by the Commission of an Assistant Director of Coastal Division; providing the amount of compensation to be paid employees of the Division to be fixed by the Commission; providing for bonds for employees of Coastal Division; appropriating the Fish and Oyster Fund; providing the effective date of the Act; providing a saving clause; repealing all laws in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B.#671.]

TITLE 14—TRADE AND COMMERCE

CHAPTER SIX—OFFENSES AGAINST LABELS, TRADE MARKS, ETC.

Art. 1063. Filling or not returning container

Whoever shall, other than the lawful owner, for any purpose whatever, fill with milk, cream, butter, or ice cream any milk can, milk bottle, milk bottle case, milk jar, butter box, ice cream can, or ice cream tub or mutilate or destroy without the consent of the owner of the same, or willfully refuse to return or deliver to such owner, upon demand, any such milk can, milk bottle, milk bottle case, milk jar, butter box, ice cream can, or ice cream tub branded or stamped with the name or trade-mark of such owner, or bearing any private mark in common use by such owner, or from which such brand or stamp or private mark, or marks have been removed, cut off or defaced, shall be fined not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100). [As amended Acts 1937, 45th Leg., H.B. # 539, § 1.]

Amendment of 1937, effective April 26, 1937.

Section 4 of the amendatory Act of 1937 #539 declares the provisions of the Act to be severable and that if any provision

is held invalid, such invalidity shall not affect the remainder and section 5 declares an emergency making the Act effective on and after its passage.

Art. 1064. Injuring milk containers, etc.

Whoever shall remove, cut off, deface, or obliterate the stamp or brand or private mark of any owner of any milk can, milk bottle, milk bottle case, milk jar, butter box, ice cream can, or ice cream tub, or stamp or place other than brands or stamps or private mark on any such milk bottle, milk jar, milk can, milk bottle case, butter box, ice cream can, or ice cream tub, without the written permission of such owner, shall be fined not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100). [As amended Acts 1937, 45th Leg., H.B. # 539, § 2.]

Amendment of 1937, effective April 26, 1937.

See note to article 1063.

Art. 1065. Ownership of milk containers, etc.

Any person, firm, or corporation, or joint stock association owning or using milk cans, milk bottles, milk bottle cases, milk jars, butter boxes, ice cream cans, or ice cream tubs in his, her, or their name or names, or

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

private mark or marks in common use branded or stamped or placed on the same shall be considered the owner thereof. [As amended Acts 1937, 45th Leg., H.B. # 539, § 3.]

Amendment of 1937, effective April 26, 1937. See note to article 1063.

CHAPTER SEVEN—ASSUMED NAME

Articles 1067–1070.

Acts 1937, 45th Leg., H.B. # 452, amending Revised Civil Statutes of 1925, articles 6111, 6113, 6116, 6122, relating to limited partnerships, provides in section 1a that

nothing contained in the amendatory act of 1937 "shall be construed to change, alter, amend or repeal Chapter 7, Title 14, Penal Code."

CHAPTER ELEVEN—GASOLINE AND PETROLEUM PRODUCTS

Art. 1104. Must not flash

No person, firm, association of persons, or corporation shall sell or offer for sale any kerosene or distillate to be used for domestic cooking, illuminating, heating, or other domestic uses, having a flash point at a temperature below 112 degrees Fahrenheit, according to the United States official closed cup testing method of the United States Bureau of Mines. [As amended Acts 1937, 45th Leg., H.B. # 527, § 1.]

Amendment of 1937, effective May 13, 1937.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Art.

1125a. Livestock commission merchants
[New].

Art. 1125a. Livestock commission merchants

Sec. 9. Whoever advertises or solicits business as a livestock auction commission merchant, or in any way pursues the occupation of a livestock auction commission merchant, without first having made the bond required by the law of this State, or failed to keep and maintain said bond in full force and effect as required by such law, or who shall fail to keep an accurate description of said property, giving the marks and brands thereon, if any, or who shall fail to make quarterly reports to the Commissioners Court of the county in which he pursues such business, giving such description of said livestock, which shall contain the name of the consignor, together with the name and address of the person or persons purchasing the same, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25), nor more than One Thousand Dollars (\$1,000), or be confined in the county jail of such county for any period of time not exceeding thirty (30) days, or by both such fine and imprisonment.

Sec. 10. Any person engaged in the business of livestock auction commission merchant, as defined by this Chapter, who shall intentionally fail and refuse, within forty-eight (48) hours after the sale of any livestock consigned to him and sold by him at auction, to remit the net proceeds thereof to the person or persons rightfully entitled to receive the same, or to such person, firm, or corporation as said parties rightfully entitled thereto shall direct, shall be deemed guilty of a misdemeanor, and shall be punished with a fine of not less than Twenty-five Dollars

(\$25), nor more than One Hundred Dollars (\$100), or be imprisoned in the county jail for not exceeding thirty (30) days, or by both such fine and imprisonment.

Sec. 11. Any person engaged in the business of a livestock auction commission merchant, who shall appropriate or use for any purpose, other than remitting to said person, firm, or corporation entitled to receive the same, any portion of the net proceeds of livestock so sold at auction by such livestock auction commission merchant, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding One Thousand Dollars (\$1,000), and shall be confined in the county jail in said county not exceeding one year.

Sec. 12. Any livestock auction commission merchant who shall fail at any time to keep conspicuously posted in the main office of his principal place of business a certified copy of the bond furnished to him by the County Clerk, under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding One Hundred Dollars (\$100), and each day that said copy shall not be so posted is a separate offense. [Acts 1937, 45th Leg., H.B. # 659.]

Effective April 26, 1937.
Section 13 of this Act declared an emergency making the Act effective on and

after its passage. Sections 1 to 8 are published as Rev.Civ.St. article 1287a.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER THREE—MALICIOUS MISCHIEF

Art.

1371a. Unregistered dogs prohibited from running at large [New].

Art. 1371a. Unregistered dogs prohibited from running at large

Section 1. From and after the effective date of this Act, it shall be unlawful for the owner or any person, having control of any dog six (6) months or more of age, to permit or allow said dog to run at large, unless such dog shall have been by such owner or person having control of said dog duly registered with the County Treasurer of the county in which said dog runs at large, and shall have securely fastened about its neck a dog identification tag showing its registration and duly assigned to said dog by the County Treasurer of said county in the manner hereinafter set forth. It shall be the duty of the Commissioners Court to furnish the County Treasurer the necessary dog identification tags numbered consecutively from one up and each such identification tag shall, also, have printed or impressed on it the name of the county in which said tag is issued. At the time any dog is registered hereafter under the provisions of this Act, it shall be the duty of the County Treasurer to assign to such dog a registration number and deliver to the owner or person having control of said dog the necessary dog identification tag as herein provided for. The County Treasurer shall, also, issue to the person registering any dog a certificate showing that said dog has been duly registered under this Act.

The County Treasurer shall likewise be furnished with a substantial and well-bound book for registration of dogs which book shall show the age, breed, color, and sex of each dog so registered, together with the date of registration.

Unmuzzled dogs prohibited from running at large at night

Sec. 2. From and after the effective date of this Act it shall be unlawful for the owner of any dog to allow such dog to run at large between

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

sunset and sunrise of the following day, unless such dog has securely fastened about his mouth a leather or metallic muzzle as will effectively prevent such dog from killing or injuring sheep, goats, calves, or other domestic animals or fowls.

Killing of dogs for attacking domestic animals authorized

Sec. 3. Any dog, whether registered and tagged or not, when found attacking any sheep, goats, calves, and/or other domestic animals or fowls, or which has recently made, or is about to make such attack on any sheep, goats, calves, and/or other domestic animals and fowls, may be killed by anyone present and witnessing or having knowledge of such attack and without liability in damage to the owner of such dog. Any dog, whether registered and tagged or not, known or suspected to be a killer of sheep, goats, calves, or other domestic animals or fowls, is hereby declared to be a public nuisance and such dog may be detained or impounded by any person until the owner may be notified, and until all damage done by said dog shall have been determined and paid to the proper parties. Any dog known to have attacked, killed, or injured any sheep, goat, calf, or other domestic animal or fowl, shall be killed by the owner of such dog, and upon failure of such owner so to do, any sheriff, deputy sheriff, constable, police officer, magistrate, or County Commissioner is authorized to kill such dog, and such officer is further authorized to go upon the premises of the owner of such dog for such purpose.

The owner of any sheep, goats, or other domestic animals, subject to the ravages of sheep-killing dogs, may place poison on the premises where such sheep, goats, and other domesticated animals are kept, after posting notices of such poison at each place of entrance to said premises.

Annual registration tax; disposition of money

Sec. 4. Each dog so registered shall be subject to a tax of One Dollar (\$1) which shall be paid to the County Treasurer at the time of such registration and shall cover the costs of registration and identification tag, and shall be good for the period of one year from date of such registration. Upon the removal of a dog from one county to another, the owner may present his registration certificate to the County Treasurer of the county to which such dog is removed and receive without additional cost a registration certificate effective to the end of the year for which such dog was registered in the other county and likewise in any other county to which such dog may be removed. The tax so collected shall be placed in a special fund and shall be used only for defraying the expenses of administration of this Act in such county and for reimbursing the owner or owners of sheep, goats, calves, and/or other domestic animals, and/or fowls that may have been killed in such county by dogs not owned by the person seeking reimbursement. Such payment shall be made on order of the Commissioners Court and only on satisfactory proof. Such payment shall be made in the amount, and at such time as the said Commissioners Court may determine, and in the event that such fund shall be insufficient to reimburse all injured parties in full, payment shall be made pro rata. The County Treasurer shall keep an accurate record showing all amounts coming into said fund and disbursements therefrom. Provided, that any dog brought into the county for breeding purposes, trial, or show for a period of not exceeding ten (10) days shall not be required to be registered. Provided further, that upon sale or transfer of ownership of a dog, the registration certificate shall be transferred to the new owner.

Penalty

Sec. 5. The owner of any dog who shall willfully fail or refuse to register such dog, or who shall willfully fail or refuse to allow a dog to

be killed when ordered by the proper authorities so to do, or who shall wilfully violate any provision of this Act, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding One Hundred Dollars (\$100), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Local option; election procedure

Sec. 6. This Act shall not be effective in any county unless and until the qualified property taxpaying voters of such county, by a majority vote at an election held for such purposes, shall have voted therefor. Upon a petition signed by one hundred (100), or a majority of the qualified property taxpaying voters of a county, the Commissioners Court shall order an election to be held throughout such county in not less than ten (10) nor more than twenty (20) days to determine whether or not the registration of and the tax on dogs shall be required in such county. Notice of such election shall be given by the publication of said notice one time in a newspaper of general circulation in the English language in said county. But if there be no newspaper in the English language and of general circulation published in the said county, then such notice shall be posted at the courthouse door for a period of not less than one week before such election. At such election those favoring the putting into force of this law in such county shall have written or printed on their ballots the words:

"For Registration of and Tax on Dogs" and those opposed to the proposition shall have written or printed on their ballots the words: "Against the Registration of and Tax on Dogs." If a majority of those voting at such election shall be in favor of such registration and tax, then such law shall become effective within ten (10) days from the date on which the result of such election shall have been declared. Returns of such election shall be made by the presiding officers of same within three (3) days after such election, and in duplicate to the County Judge and County Clerk. The Commissioners Court shall canvass such returns and declare the result not later than the first Monday after such returns are made, and if the vote be in favor of the registration of and tax on dogs, then the County Judge shall issue his proclamation declaring the result of said election and putting the same into force and effect in said county, which proclamation shall be published one time in a newspaper of general circulation in the English language in said county. But if there be no newspaper in the English language and of general circulation published in said county, then such proclamation shall be posted at the courthouse door.

When an election under this Section shall have been held and the result of same has been adverse to the registration of and tax on dogs, then no other election shall be held on the same subject for a period of six (6) months. But if the result shall be for the registration of and tax on dogs, then no election for the repeal of same shall be held for a period of two (2) years. The returns of such election shall be preserved for one year after such election.

When an election, under this Act, shall have been held and the results shall be for the registration of and tax on dogs, each owner or person having control of any dog of the age of six (6) months or more in said county shall, within thirty (30) days from the date of the proclamation herein provided for, register said dog with the County Treasurer of said county under the provisions of this law.

Partial invalidity

Sec. 7. If any provision, paragraph, or sentence of this Act shall be held invalid, such invalidity shall not affect or invalidate the remaining

For Annotations and Historical Notes, see *Vernon's Texas Annotated Statutes*

provisions, paragraphs, and sentences of this Act. [Acts 1937, 45th Leg., H.B. # 196.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 8 repeals all conflicting laws and parts of laws. Section 9 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the registration of dogs and for a tax on same; prohibiting unregistered dogs from running at large; prohibiting dogs not muzzled from running at large during the nighttime; providing conditions under which certain dogs may

be killed; making it unlawful to own and keep a dog not registered; prescribing conditions under which poison may be put out for dogs; prescribing the rate of tax and for use and distribution of such fund; prescribing a penalty for violation of this Act; providing a method by which this Act may be made effective in counties; providing a saving clause in case any part of this Act be held invalid; repealing any and all laws in conflict herewith, and declaring an emergency. [Acts 1937, 45th Leg., H.B.#196.]

CHAPTER EIGHT—THEFT IN GENERAL

Art.

1426c. Stealing wool, mohair, or edible meat a felony [New].

1436a. Regulating dealing in used pipe line and oil and gas equipment; definitions [New].

Art. 1426c. Stealing wool, mohair, or edible meat a felony

Whoever shall steal any wool or mohair or edible meat, shall upon conviction, be guilty of a felony, and shall be confined in the penitentiary for not more than ten (10) years, or shall be confined in jail for not more than two (2) years, or shall be fined not more than Two Hundred Dollars (\$200), or be punished by both such fine and imprisonment in jail. [Acts 1937, 45th Leg., H.B. # 940, § 1.]

Effective May 15, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act making theft of wool or mohair or edible meat a felony; prescribing penalties therefor, and declaring an emergency. [Acts 1937, 45th Leg., H.B.#940.]

Art. 1436a. Regulating dealing in used pipe line and oil and gas equipment; definitions

Section 1. (a) That "Pipe Line Equipment" is hereby defined to be all pipe, fittings, pumps, telephone and telegraph lines, and all other material and equipment used as part of or incident to the construction, maintenance and operation of any pipe line for the transportation of oil, gas, water or other liquid or gaseous substance.

(b) "Oil and Gas Equipment" is hereby defined to be equipment and materials which are part of, or incident to, the development, maintenance and operation of oil and gas properties. Included in this definition is equipment and materials which are part of, or incident to the construction, maintenance and operation of oil and gas wells, oil and gas leases, gasoline plants, and refineries.

(c) "Pipe Line Equipment, Oil and Gas Equipment" shall be classed as "used materials", after such equipment has once been placed into the use for which the same was first manufactured and intended.

The term "used materials" shall mean any used pipe line equipment or oil and gas equipment as defined by this Act.

Definitions

Sec. 2. (a) "Person" shall mean and include persons, firms, partnerships, companies, corporations, associations, common law trusts, statu-

tory trusts and other concerns by whatever name known or howsoever organized, formed or created.

(b) "Dealer" shall mean and include every person engaged in buying, selling, or otherwise dealing in used materials and who has a fixed, designated place, or places of business, within the State.

(c) "Broker" shall mean and include every person engaged in buying, selling, or otherwise dealing in used materials, as agent for the seller of such used materials, or as agent for the buyer of such used materials, or as agent for both.

(d) "Peddler" shall mean and include every person who is not a dealer or broker, and who is engaged in the buying, selling or otherwise dealing in used materials.

(e) "Owner" shall mean and include every person who owns or acquires used materials, and which is intended to be employed or is being employed in the business of such person as an incident thereto and is not owned or acquired for the purpose of resale.

(f) "Yard" shall mean the place where any dealer stores used materials, or keeps the same for the purpose of sale.

Bill of sale, necessity and requisites

Sec. 3. Every dealer, broker or peddler as herein defined shall before purchasing any used materials, at any time after the effective date of this Act, require a bill of sale for such used materials to be executed and acknowledged by the seller in the manner required by law for registration thereof containing the name and address of such dealer, broker or peddler, the serial number, if any, the kind, make, size, weight, length and quantity of the used materials so purchased, the date of the purchase, if different from the date of the bill of sale, the name and address of the seller, and the place of location of such property at the time purchased or acquired.

Act inapplicable to purchases under \$25.00

Sec. 4. The provisions of this Act shall not apply where the reasonable market value of purchases made is less than Twenty-five (\$25.00) Dollars.

Penalty

Sec. 5. Every person, dealer, peddler or broker who violates any of the provisions of this Act shall be guilty of a misdemeanor and upon a conviction, shall be subject to a fine or [of] not less than Ten (\$10.00) Dollars or more than Fifty (\$50.00) Dollars. The Attorney General of this State or any District Attorney or County Attorneys of this State shall be, and is hereby authorized and empowered to enjoin in the name and behalf of the State of Texas any dealer, peddler or broker from continuing in said business in the State of Texas upon violation of any of the provisions of this Act. [Acts 1937, 45th Leg., S.B. # 405.]

Effective 90 days after May 22, 1937, date of adjournment.

Section 6 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to regulate the business of buy-

ing, selling and otherwise dealing in used pipe line and oil and gas equipment, defining dealers, peddlers and brokers engaged in said business, requiring the securing of bills of sale, and providing penalties for violation of this Act, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #405.]

CHAPTER TEN—THEFT OF ANIMALS

Art. 1441. [1354] [882] [747] Theft of cattle or hog

Whoever shall steal any cattle or hog shall be confined in the penitentiary not less than two (2) nor more than ten (10) years. [As amended Acts 1937, 45th Leg., H.B. # 116, § 1.]

Amendment of 1937 effective 90 days after May 22, 1937, date of adjournment. the Act should take effect from and after its passage.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that Theft in general see art. 1410.

Art. 1442. [1355] [883] [748] Theft of sheep or goat

Whoever shall steal any sheep or goat shall be confined in the penitentiary not less than two (2) nor more than ten (10) years. [As amended Acts 1937, 45th Leg., H.B. # 115, § 1.]

Amendment of 1937, effective 90 days after May 22, 1937, date of adjournment.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that the Act should take effect from and after its passage.

3. Charge

In prosecution for theft of sheep, refusing charge precluding conviction on finding that accused received or concealed sheep with knowledge that they were stolen held error. *Petty v. State*, 129 Cr.R. 20, 83 S.W.(2d) 995.

CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

Art.

1525d. Bang's disease, cattle infected with, to be branded and tagged for identification [New].

Art. 1525d. Bang's disease, cattle infected with, to be branded and tagged for identification

Section 1. That when an accredited representative of the Livestock Sanitary Commission of Texas or an accredited representative of the United States Secretary of Agriculture or an authorized veterinarian makes an agglutination blood test for Bang's Disease of cattle in this State and furnishes to the owner of such cattle in writing data showing that a certain identified animal or animals have reacted to the test and are affected by the disease, it shall be the duty of the owner of such cattle within ten (10) days to brand each reactor or animal affected with the disease on the left jaw with the letter "B" and place a metal tag in the ear of each such animal with numbers thereon and report in writing to the Livestock Sanitary Commission of Texas the numbers on such tags.

Penalty

Sec. 2. If any person shall violate any of the provisions of this Act, he shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed Two Hundred Dollars (\$200) for each offense. [Acts 1937, 45th Leg., H.B. # 1061.]

Effective June 2, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act requiring owners of cattle affect-

ed with Bang's Disease to brand and tag them for identification after they have been tested and found to have such disease; and providing a penalty; and declaring an emergency. [Acts 1937, 45th Leg., H.B.#1061.]

TITLE 18—LABOR

CHAPTER SIX—WORKMEN AND FIREMEN

Art.

1583b. Vacations for jailers, jail guards,
and jail matrons [New].

Art. 1583. Work and vacation of firemen or policemen

1. No member of any fire department or police department in any city of more than twenty-five thousand (25,000) inhabitants shall be required to be on duty for more than six (6) days in any one week.

2. The preceding subdivision shall not apply to cases of emergency.

3. Each member of any such departments in any city of more than thirty thousand (30,000) inhabitants shall be allowed fifteen (15) days vacation in each year, with pay; provided that the provision of this Section of this Act shall not be applied to any member of any such departments in any city of more than thirty thousand (30,000) inhabitants unless such member shall have been regularly employed in such department or departments for a period of at least one year.

4. Each preceding Federal Census shall determine the population.

5. The city officials having supervision of the fire department and police department shall designate the days of the week upon which each such member shall not be required to be on duty, and the days upon which each such member shall be allowed to be on vacation.

6. It shall be unlawful for any city of more than seventy-five thousand (75,000) inhabitants to require or permit any such firemen and policemen to work more than twelve (12) hours per calendar day or more than seventy-two (72) hours in any one calendar week and, in no event, more than one hundred forty-four (144) hours in any two (2) consecutive calendar weeks in the discharge of their duties except in case of emergency which may arise where it may become necessary to work more than twelve (12) hours per calendar day or more than seventy-two (72) hours in any one calendar week or more than one hundred forty-four (144) hours in any two (2) consecutive calendar weeks for the protection of property or human life; said firemen and policemen shall draw additional compensation for the number of hours worked in addition to the regular twelve (12) hour calendar day, or more than the regular seventy-two (72) hours in any one calendar week or more than the regular one hundred forty-four (144) hours in any two (2) consecutive calendar weeks or if required to work on any day which has been designated as the day of the week that such member of said department should not be required to be on duty, additional compensation at the rate of time and one-half over time computed upon the basis of their monthly salary shall be paid to them for such additional time as they are required to work.

7. It is further provided that in any city of more than seventy-five thousand (75,000) inhabitants that each member of any such department shall receive a sum of One Hundred Fifty (\$150.00) Dollars per month as a minimum wage for said services so rendered.

The city official having charge of the fire department or police department in any such city who violates any provision of this Article shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and each day on which said city official shall cause or permit any section of this Act to be violated shall constitute and be a

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

separate offense. [As amended Acts 1935, 44th Leg., p. 377, ch. 139, § 1; Acts 1937, 45th Leg., S.B. # 89, § 1.]

Effective April 19, 1937.

Section 2 of this Act declared an emergency, making the Act effective on and after its passage.

Art. 1583b. Vacations for jailers, jail guards, and jail matrons

Every member of the sheriff's department assigned to duty as jailer, jail guard, or jail matron at any county jail in any city of more than twenty-five thousand (25,000) inhabitants shall be allowed fifteen (15) days vacation in each year with pay, not more than two (2) members to be on vacation at the same time; provided that the provisions of this Section of this Act shall not be applied to any such jailer, jail guard, or jail matron in any city of more than twenty-five thousand (25,000) inhabitants, unless such member shall have been regularly employed as such jailer, jail guard, or jail matron for a period of at least one year.

Each preceding Federal Census shall determine the population.

The sheriff having supervision of the county jail shall designate the days upon which each jailer, jail guard, or jail matron shall be allowed to be on vacation.

The sheriff having supervision of the county jail in any such city who violates any provision of this Article shall be fined not less than Ten Dollars (\$10), nor more than One Hundred Dollars (\$100). [As added Acts 1937, 45th Leg., H.B. # 473, § 1.]

Effective April 9, 1937.

Section 2 of this Act declared an emergency making the Act effective on and after its passage.

CHAPTER SEVEN—EMPLOYMENT AGENTS

Art. 1589. Fees

No fee nor other charge shall be made by any employment agent or agency for registration of applicants for employment, and where a fee is charged for obtaining employment, such fee shall not be collected nor received until the applicant has obtained and accepted employment, and all such fees or charges shall be agreed to and stipulated in the application at the time such employment agent registers such applicant. [As amended Acts 1937, 45th Leg., 2nd C.S., H.B. #10, § 1.]

Effective Nov. 3, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

TITLE 19—MISCELLANEOUS OFFENSES

[CHAPTER TEN A]—PLANT DISEASES AND PESTS

Art.

1700a—3. Dealers in citrus fruits without license [New].

Art. 1700a—3. Dealers in citrus fruits without license

Any person who shall act as a dealer, as defined in this Act, without having issued to him, a license, as herein provided, or who, having a license, violates any provisions of this Act, or any packer or warehouseman who fails to keep the records hereinabove provided to be kept, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1000) or be confined in jail for a period not exceeding ninety (90) days,

or by both such fine and imprisonment, and each day any such person operates in violation of the terms of this Act shall constitute a separate offense. [Acts 1937, 45th Leg., H.B. # 99, § 21.]

Effective 90 days after May 22, 1937,
date of adjournment.

Sections 1-20, 22-28 of Acts 1937, 45th
Leg., H.B. # 99 published as Rev.Civ.St.
art. 118b.

Section 29 of this Act of 1937 declared an
emergency and provided that the Act
should take effect from and after its pas-
sage.

THE CODE OF CRIMINAL PROCEDURE

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

Art.

367c. Grand jury bailiffs in counties of 290,000 to 320,000 [New].

Art. 367c. Grand jury bailiffs in counties of 290,000 to 320,000

Section 1. Any county in this State having a population of not less than two hundred and ninety thousand (290,000) inhabitants and not more than three hundred and twenty thousand (320,000) inhabitants according to the United States Census of 1930 and all future Federal Census, the Judge of the Criminal District Court in such county may appoint grand jury bailiffs not exceeding seven (7) whose compensation shall be Twenty-four Hundred (\$2400.00) Dollars per annum, each; said compensation to be payable in twelve (12) equal monthly installments. Bailiffs thus appointed are subject to removal for cause, or without cause, at the will of the Judge of the Criminal District Court.

Sec. 2. In addition to the salary herein provided for grand jury bailiffs serving the Criminal District Court in such county shall each be allowed the sum of Twenty-five (\$25.00) Dollars per month for repair, maintenance, and traveling expenses of an automobile used by each of said grand jury bailiffs while on official business in the investigation of crime and the service of process. Said allowances together with the salary of each of said grand jury bailiffs to be paid monthly by said county out of the Jury Funds of said county. [Acts 1937, 45th Leg., S.B. # 454.]

Effective April 16, 1937.

Section 3 of this Act repeals all conflicting laws and parts of laws and section 4 declares an emergency making the Act effective on and after its passage.

Title of Act:

An Act providing for the appointment of grand jury bailiffs by the Judge of the Criminal District Court in any county having a population of not less than two hundred and ninety thousand (290,000) inhabitants and not more than three hundred

and twenty thousand (320,000) inhabitants, according to the United States Census of 1930 and all future Federal Census; providing for the salaries of said grand jury bailiffs, the method of payment, and the removal of said grand jury bailiffs; providing certain expenses to be allowed for travel and in connection with the use of the automobiles for official business by said grand jury bailiffs; repealing all laws in conflict, and declaring an emergency. [Acts 1937, 45th Leg., S.B. #454.]

TITLE 8—TRIAL AND ITS INCIDENTS

CHAPTER TWO—SPECIAL VENIRE IN CAPITAL CASES

Art.

601—a. Special venire in counties having city of 231,500 to 250,000 [New].

Art. 590. [659] [646] Setting capital cases

A capital case may by agreement of the parties be set for any particular day of the term with the permission of the court; or the court may at its discretion set a day for the trial or disposition of the same; and the day agreed upon by the parties, or fixed by the court, may be changed, and some other day fixed, should the court at any time deem it advisable.

Provided that the court may at its discretion set any number of capital cases for the same day of the term, and only one venire shall be drawn for all capital cases set for the same day of the term.

Each defendant shall be furnished a list of the venire for the day for which his case is set for trial, as already made and provided by law, and if either case set for trial shall go to trial, then it shall be in the discretion of the court whether the remaining veniremen shall be excused, or ordered back for service in the trial of the remaining case or cases to be tried that were set for trial on that day. [As amended Acts 1935, 44th Leg., p. 502, ch. 212, § 1; Acts 1937, 45th Leg., S.B. # 103, § 1.]

Amendment of 1937, effective June 2, 1937, the Act should take effect from and after its passage.

Section 2 of the amendatory Act of 1937 declared an emergency and provided that

Art. 601—a. Special venire in counties having city of 231,500 to 250,000

In counties having therein a city of two hundred thirty-one thousand five hundred (231,500), and not more than two hundred fifty thousand (250,000) population, as shown by the last preceding Federal Census, the Judge of the Court having jurisdiction of a capital case in which a motion for a special venire has been made, shall grant or refuse such motion at his discretion and upon such refusal require the case to be tried by the regular jurors summoned for service, and such additional talesmen as may be ordered by the Court, in the Courts of such County where as many as one hundred (100) jurors have been summoned in such County for regular service for the week in which such capital case is set for trial, but the Clerk of such Court shall furnish the defendant or his counsel a list of the persons summoned for jury service for such work upon application therefor, and it is further provided that all laws and parts of laws in conflict with the provisions of this bill be and the same are hereby repealed to the extent of such conflict only. [As added Acts 1937, 45th Leg., S.B. # 397.]

Effective May 1, 1937.

Section 2 of this Act declared an emergency making the Act effective on and after its passage.

TITLE 9—PROCEEDINGS AFTER VERDICT

CHAPTER FOUR—EXECUTION OF JUDGMENT

1. IN MISDEMEANOR CASES

Art.

793a. Convicts laying out fines in jail or working out fines to receive \$1.00 to \$3.00 a day credit in certain counties [New].

794a. Work on public roads in certain counties [New].

794b. Convicts working out fines to receive one dollar a day credit in certain counties [New].

Art.

794c. Convicts laying fines out in jail or working out fines to receive one dollar a day credit in certain counties [New].

794d. Convicts laying out fines in jail or working out fines to receive one dollar a day credit in certain counties [New].

1. IN MISDEMEANOR CASES

Article 793. [878] [856] Fine discharged

When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding Article, or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such labor or imprisonment at Three Dollars (\$3) for each day thereof; provided, however, that in all counties in this State containing a population of not less than twenty-four thousand one hundred eighty (24,180) nor more than twenty-four thousand two hundred (24,200); or in any counties containing a population of not less than forty-one thousand (41,000) and not more than forty-two thousand (42,000); and in all counties having a population of not less than forty-three thousand and thirty (43,030) and not more than forty-three thousand and fifty (43,050); and all counties having a population of not less than thirty-seven thousand two hundred eighty-six (37,286) and not more than thirty-seven thousand two hundred ninety (37,290); and all counties having a population of not less than seven thousand one hundred (7,100) nor more than seven thousand one hundred fifty (7,150); and in counties containing a population of not less than thirty thousand seven hundred and seven (30,707) nor more than thirty thousand seven hundred and nine (30,709); and in counties containing a population of not less than twenty-seven thousand five hundred forty-nine (27,549) nor more than twenty-seven thousand five hundred fifty-one (27,551); and in counties containing a population of not less than nineteen thousand one hundred twenty-eight (19,128) nor more than nineteen thousand one hundred thirty (19,130); and in counties containing a population of not less than eighteen thousand eight hundred fifty-nine (18,859) nor more than eighteen thousand six hundred sixty-one (18,661); and in counties containing a population of not less than ten thousand and thirteen (10,013) nor more than ten thousand and fifteen (10,015), according to the last preceding Federal Census, when a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding Article, or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him, rating such labor and imprisonment at not less than One Dollar (\$1) per day nor more than Three Dollars (\$3) per day.

The Commissioners Court of each such county as defined by population brackets above in this State, at any regular or special term, shall, by order made and entered in the minutes of said Court, determine the rate of wages to be paid convicts in their respective counties for labor or imprisonment per day in accordance herewith. [As amended Acts 1927, 40th Leg., 1st C.S., p. 194, ch. 68, § 1; Acts 1934, 43rd Leg., 2nd C.S., p. 85, ch. 33, § 1; Acts 1937, 45th Leg., 1st C.S., H.B. #45, § 1.]

Effective July 7, 1937.

Section 2 of this Act declared an emer-

gency and provided that the Act should take effect from and after its passage.

Art. 793a. Convicts laying out fines in jail or working out fines to receive \$1.00 to \$3.00 a day credit in certain counties

In all counties in this State containing a population of not less than sixty thousand, five hundred (60,500), nor more than sixty thousand, five hundred and twenty-five (60,525), and in all counties containing a population of not less than thirty-two thousand, eight hundred and twenty (32,820), nor more than thirty-two thousand, eight hundred and fifty (32,850), according to the last preceding Federal Census, whenever a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may, for such time as will satisfy the judgment, be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding Article, or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of such fine and costs adjudged against him; rating such labor or imprisonment at not less than One Dollar (\$1) per day nor more than Three Dollars (\$3) per day. The Commissioners Court of each such county as defined by population brackets above in this State, at any regular or special term, shall, by order made and entered in the minutes of said Court, determine the rate of wages to be paid convicts in their respective counties for labor or imprisonment per day in accordance herewith. [Acts 1937, 45th Leg., 2nd C.S., H.B. #32, § 1.]

Effective Nov. 3, 1937. the act should take effect from and after
Section 2 of the amendatory act of 1937 its passage.
declared an emergency and provided that

Art. 794a. Work on public roads in certain counties

Section 1. In all counties in this State containing a population of not less than forty-three thousand, one hundred and eighty (43,180), nor more than forty-four thousand, one hundred (44,100), according to the last Federal Census, the Commissioners Court shall require all able-bodied male convicts, not otherwise employed, to labor on the public roads and under such regulations as they may prescribe, and each convict so worked shall receive a credit of One Dollar (\$1) per day for each day he may work, ten (10) hours to be applied first to his fine and then to his costs. Each officer and witness shall be allowed to receive one-half his fees, exclusive of Commissioners, to be paid upon the warrant of the County Judge whenever said convict shall have discharged the amount of his fine and costs adjudged against him in full by work or work and money, which amount shall be paid to the officers and witnesses out of the road and bridge fund of the county. If a convict dies or escapes and is not recaptured, or is sent to the penitentiary, the amount worked out shall be credited first on the fine and the remainder shall be prorated among the officers and witnesses in proportion to the amount due them. The Commissioners Court shall provide the necessary houses, prisons, clothing, bedding, food, medicine, medical attention, and superintendent and guards for the safe and humane keeping of all convicts; provided that the Commissioners Court may require all county convicts to work on the county farm and provided further that no convict shall hereafter be credited on his fine and costs with more than One Dollar (\$1) per day. Provided further, that the Commissioners Court of said counties shall be authorized and empowered to purchase all the necessary means of transportation including any and every kind of motor vehicle, passenger car, and/or trucks, which, in the opinion of said Court, may be reasonably necessary to transport from place to place in said

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county the said convicts and/or other laborers, mechanics and/or superintendents, including the members of the Court themselves, if necessary, to the various places in said county in order that road and bridge work may be properly carried on and performed with dispatch and efficiency; and provided further, that said Court may provide for the cost of operation and maintenance of said motor vehicle or vehicles purchased and operated for said purposes, and the expense necessary for the purchase price of said motor vehicles, together with all necessary operating costs, maintenance costs, and repair costs shall be paid or orders of said Commissioners Court, duly audited, authorized, and approved as in other accounts.

And further provided, that it shall be unlawful for any County Judge, County Attorney, County Clerk, Sheriff, Deputy Sheriff, Justice of the Peace, Constable, or Deputy Constable of said county to fail or refuse to commit and deliver to the Road Commissioner or person in charge of the convict road gang or to the Superintendent of the county farm, any county convict who fails to pay in full his fine and costs immediately upon conviction either by trial or plea of guilty and it is hereby declared to be unlawful for any of said officers to permit any county convict to go at large upon any character of partial payment on his fine and cost or upon any character of promise to pay same, but all convicts shall be held and in default of all fine and costs adjudged against him he shall be promptly delivered to the proper parties for road duty or work on the county farm as ordered by the Commissioners Court. And it is further declared to be unlawful for any of said officers to make any agreement with any defendant who is charged with a misdemeanor in any Court or accept any partial payment upon a fine and costs to be entered upon record later or to accept any sum of money to be thereafter applied upon the defendant's fine and costs and mark defendant's case continued by virtue of said agreement or to agree that same will be passed or continued upon such partial payment or deposit of money in any manner whatever. Any of said officers who shall violate any of the provisions of this Section knowingly shall be deemed guilty of a misdemeanor, and upon conviction before a Court of competent jurisdiction shall be fined in any sum not less than Ten Dollars (\$10) and not more than Twenty-five Dollars (\$25).

Sec. 2. This Act shall be considered cumulative of all general and special laws of the State of Texas now in force on the subject of roads and bridges, when not in conflict herewith, but in case of conflict, then this Act shall control as to counties affected by this Act. [Acts 1937, 45th Leg., H.B. # 672.]

Effective April 6, 1937.

Section 3 of this Act declared an emergency making the Act effective on and after its passage.

Title of Act:

An Act authorizing the Commissioners Court in certain counties to require all male convicts to labor on the public roads; providing that each convict shall receive a credit of One Dollar (\$1) a day for each day so employed; providing for the payment of fees to officers and witnesses; providing that the Commissioners Court shall provide for the transportation of the county convicts who may be ordered to work on said roads, and for the transportation from place to place in the county of the various employees, hands, laborers, mechanics, and artisans who may be em-

ployed on the roads and bridges of the county in the inspection and general supervision of the roads and bridges of said counties by providing for the purchase by the Court of such motor vehicles, motor trucks, and trailers as may appear reasonably necessary and proper by said Court for said purposes; providing for the necessary and incidental expenditures for the maintenance and upkeep of said motor vehicles as may be provided by said Court; providing the duties of certain officers in connection herewith and prescribing a penalty for failure to perform such duties; making the Act cumulative of all other General and Special Laws on the same subject, and declaring an emergency. [Acts 1937, 45th Leg., H.B.#672.]

Art. 794b. Convicts working out fines to receive one dollar a day credit in certain counties

In all of the counties in this State containing a population of not less than twenty-nine thousand, four hundred (29,400) nor more than thirty thousand, four hundred (30,400), and in counties containing a population of not less than forty thousand, nine hundred (40,900) nor more than forty thousand, nine hundred and seventy-five (40,975), and in counties containing a population of not less than forty-six thousand, one hundred and eighty (46,180) nor more than forty-six thousand, two hundred and eighty (46,280), according to the last preceding Federal Census, all convicts, either laying their fines out in jail or working out said fines on the county farm, county roads, or other public works shall receive a credit therefor of One Dollar (\$1) per day for each day worked, or spent in jail. [Acts 1937, 45th Leg., H.B. # 1057, § 1.]

Effective May 13, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in certain counties convicts, either laying their fines out in

jail, or working such fines out on the county farm or on the county roads or other public works, shall receive a credit therefor of One Dollar (\$1) per day for each day worked, or spent in jail; and declaring an emergency. [Acts 1937, 45th Leg., H.B. #1057.]

Art. 794c. Convicts laying fines out in jail or working out fines to receive one dollar a day credit in certain counties

Section 1. In all of the counties in this State containing a population of not less than three hundred twenty-five (325,000) thousand nor more than three hundred forty-five (345,000) thousand, according to the last preceding and each succeeding Federal Census, all persons convicted by a municipal court of said counties, either laying their fines out in city jail or working out said fines, shall receive a credit therefor of One (\$1.00) Dollar per day for each day worked, or spent in jail.

Sec. 2. In all counties in this State containing a population of not less than thirty thousand, four hundred (30,400) nor more than thirty thousand, six hundred (30,600); and containing a population of not less than fifty thousand (50,000) and not more than fifty thousand, one hundred (50,100); and containing a population of not less than forty-one thousand (41,000) nor more than forty-two thousand (42,000); and containing a population of not less than forty-three thousand, thirty-five (43,035) nor more than forty-three thousand, fifty (43,050), according to the last preceding Federal Census, and in succeeding Federal Census, all prisoners or convicts either laying their fines out in city or county jails or working out said fines shall receive a credit therefor of One (\$1.00) Dollar per day for each day working or spent in jail. [Acts 1937, 45th Leg., 1st C.S., S.B. #13.]

Effective July 6, 1937.

Section 3 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in certain counties all persons convicted by a municipal court of such counties, either laying out their fines in a city jail or working out

such fines shall receive a credit therefor of One (\$1.00) Dollar per day; and in certain counties all prisoners or convicts either laying out their fines in jail or working out said fines shall receive a credit of One (\$1.00) Dollar per day; and declaring an emergency. [Acts 1937, 45th Leg., 1st C.S., S.B. # 13.]

Art. 794d. Convicts laying out fines in jail or working out fines to receive one dollar a day credit in certain counties

In all of the counties in this State containing a population of not less than twenty-four thousand (24,000) nor more than twenty-four

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thousand, one hundred (24,100), and in all counties containing a population of not less than twenty-five thousand, three hundred and ninety (25,390) nor more than twenty-six thousand (26,000), and in all counties containing a population of not less than forty-eight thousand, five hundred and twenty-five (48,525) nor more than forty-eight thousand, five hundred and thirty-five (48,535), and in all counties containing a population of not less than forty-nine thousand (49,000) nor more than forty-nine thousand, one hundred (49,100), and in all counties containing a population of not less than fifty-three thousand, nine hundred and thirty (53,930) nor more than fifty-three thousand, nine hundred and fifty (53,950), according to the last preceding Federal Census, all convicts, either laying their fines out in jail or working out said fines on the county farm, county roads, or other public works, shall receive a credit therefor of One Dollar (\$1) per day for each day worked or spent in jail. [Acts 1937, 45th Leg., 2nd C.S., H.B. #60, § 1.]

Effective Nov. 3, 1937.

Section 2 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in certain counties convicts, either laying their fines out

in jail or working such fines out on the county farm, county roads, or other public works, shall receive a credit therefor of One Dollar (\$1) per day for each day worked or spent in jail; and declaring an emergency. [Acts 1937, 45th Leg., 2nd C.S., H.B. # 60.]

TITLE 12—MISCELLANEOUS PROCEEDINGS

Chap.

1A. Insanity as defense [New].

CHAPTER 1A—INSANITY AS DEFENSE

Art.

932a. Verdict finding insanity at time of offense or at time of trial, effect of [New].

Art. 932a. Verdict finding insanity at time of offense or at time of trial, effect of

Section 1. In any case where insanity is interposed as a defense and the defendant is tried on that issue alone, before the main charge, and the jury shall find the defendant insane, or to have been insane at the time the act is alleged to have been committed, and shall so state in their verdict, and further find the defendant:

a. To have been insane at the time the act is alleged to have been committed, but sane at the time of the trial, he shall be immediately discharged;

b. To have been insane at the time the act is alleged to have been committed and insane at the time of trial, or sane at the time the act is alleged to have been committed and insane at the time of trial, the Court shall thereupon make and have entered on the minutes of the Court an order committing the defendant to the custody of the sheriff, to be kept subject to the further order of the County Judge of the county, and the proceedings shall forthwith be certified to the County Judge who shall at once take the necessary steps to have the defendant committed to and confined in a State hospital for the insane until he becomes sane.

Instructions; commitment to state hospital

Sec. 2. When the defense on the trial of the main charge is the insanity of the defendant the jury shall be instructed, if they acquit him on

that ground, to state that fact with their verdict, and if they further find the defendant:

a. To have been insane at the time the act is alleged to have been committed, but sane at the time of trial, he shall be immediately discharged;

b. To have been insane at the time the act is alleged to have been committed and insane at the time of trial, or sane at the time the act is alleged to have been committed and insane at the time of the trial, the Court shall thereupon make and have entered on the minutes of the Court an order committing the defendant to the custody of the sheriff, to be kept subject to the further order of the County Judge of the county, and the proceedings shall forthwith be certified to the County Judge who shall at once take the necessary steps to have the defendant committed to and confined in a State hospital for the insane until he becomes sane.

Recovery of sanity after commitment; procedure

Sec. 3. When the defendant so committed to a hospital for the insane becomes sane, the superintendent of the hospital shall give written notice of that fact to the Judge of the Court from which the order of commitment issued. Upon receipt of such notice the Judge shall require the sheriff to bring the defendant from the hospital and place him in the proper custody until the hearing may be had before a jury in such Court to determine defendant's sanity, and if he be found sane, he shall be discharged, unless he had been previously found to be sane at the time at which he is alleged to have committed the offense charged, in which event, unless previously acquitted, he shall be tried for the offense charged. [Acts 1937, 45th Leg., H.B. # 993.]

Effective June 8, 1937.

Section 4 of this Act declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the trial and commitment to State hospitals for the insane of persons found upon trial to have been insane at the time of the commission of the act, as well as at the time of the trial of such person; providing for the discharge of persons tried for crime if found to have been insane at the time of the commission of the offense and sane at the

time of the trial; providing for the commitment of such persons to a State hospital for the insane if found to be sane at the time of the commission of the offense but insane at the time of the trial of such person; providing for the trial of persons charged with crime who were sane at the time of the commission of the crime but insane upon the trial of their case, having been committed to a State hospital for the insane and later found to have regained their sanity, and declaring an emergency. [Acts 1937, 45th Leg., H.B. #993.]

TITLE 15—COSTS IN CRIMINAL ACTIONS

CHAPTER THREE—COSTS PAID BY COUNTIES

Art. 1041. [1143] Guards and Matrons

The sheriff shall be allowed for each guard or matron necessarily employed in the safe-keeping of prisoners Two Dollars and Fifty Cents (\$2.50) for each day. No allowance shall be made for the board of such guard or matron, nor shall any allowance be made for jailer or turnkey, except in counties having a population in excess of forty thousand (40,000) inhabitants according to the last preceding or any future Federal Census. In such counties of forty thousand (40,000) or more inhabitants, the Commissioners' Court may allow each jail guard, matron, jailer and turnkey Four Dollars and Fifty Cents (\$4.50) per day; provided that, in counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the

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last preceding or any future Federal Census, each jail guard, matron, jailer and turnkey shall be paid not less than One Hundred and Seventy-five (\$175.00) Dollars per month. [As amended Acts 1937, 45th Leg., S.B. # 101, § 1.]

Effective Feb. 10, 1937.

Section 2 of the amendatory act of 1937 declared an emergency and provided that the act should take effect from and after its passage.

Art. 1055. Half costs paid officers

The county shall not be liable to the officer and witness having costs in a misdemeanor case where defendant pays his fine and costs. The county shall be liable for only one-half thereof where defendant has been tried, and committed, acquitted, or found guilty and the case appealed; and to pay such half of such legal costs as may have been so taxed, not including commissions, the County Judge shall issue his warrant upon the County Treasurer in favor of the proper party, and the same shall be paid out of the Road and Bridge Fund or other funds not otherwise appropriated. No costs shall be collected by such officer or witness when the case is dismissed. [As amended, Acts 1937, 45th Leg., H.B. # 727, § 1.]

Effective 90 days after May 22, 1937, date of adjournment.

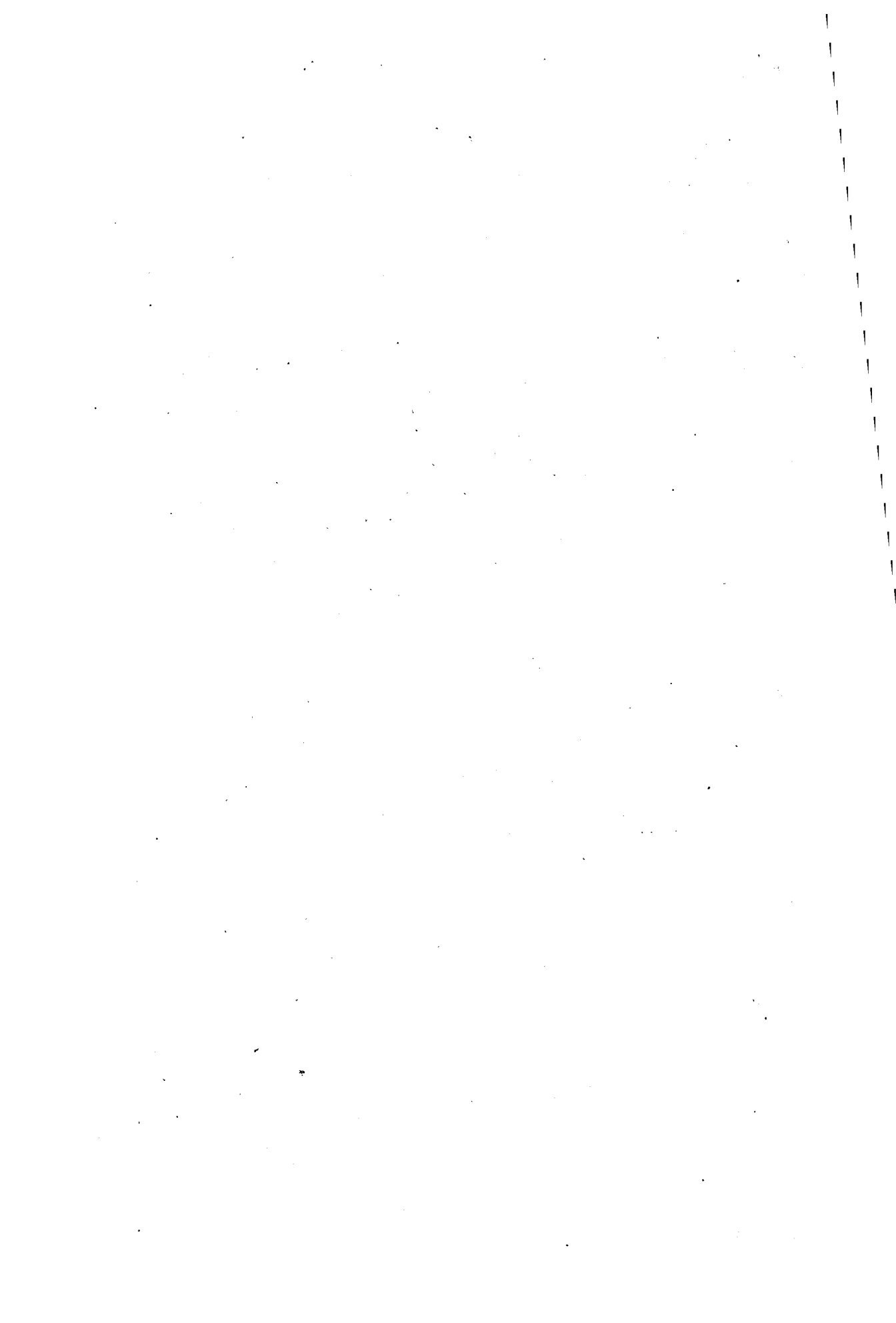
Section 2 of the amendatory Act of 1937

declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 16—DELINQUENT CHILD

Art. 1083. [Repealed by Acts 1937, 45th Leg., H.B. #1073, § 6.]

Effective June 9, 1937.



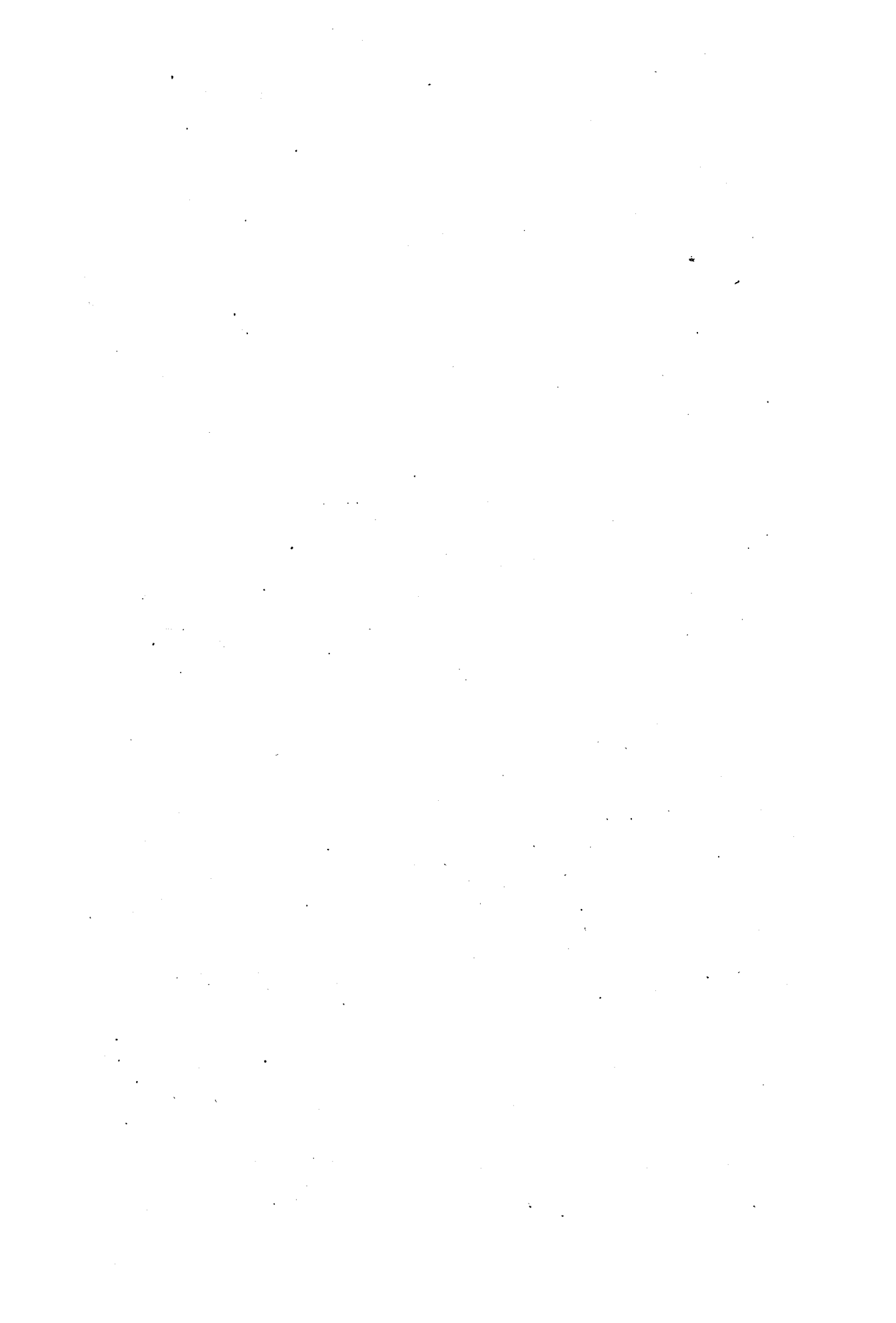


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Adjourned May 22, 1937.

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Adjourned June 25, 1937.

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Adjourned Oct. 26, 1937.

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